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2 Chiefs Disagree On 'Conspiracy' in Attacks on Police

United Press International

Two California police chiefs disagree on whether a national, Communist-inspired conspiracy is behind a rash of sniper attacks and ambushes of policemen.

Chief E. M. Davis of Los Angeles said the attacks are part of a Communist-inspired conspiracy that amounts to "revolution on the installment plan."

But Chief Charles R. Gain of Oakland said this attitude is "blindness" and would lead only to more killings. He called for a more sensitive look at causes of urban violence.

Davis and Gain, testifying before the Senate Internal Security subcommittee, described a series of incidents over the last three years in which policemen have been gunned down while writing traffic tickets, cruising the streets or taking coffee breaks.

Gain, who described 17 such incidents since 1967, said it is a "tragedy" that must be stopped by legislation to make killing of policemen, firemen and judges a federal crime.

The underlying causes of the violence are racial strife, the war in Vietnam and social inequities, he said.

Davis contended Communists are directing the movement and using Black Panthers as "shock troops."

*Just which
one is right?*

The Washington Post _____
 Times Herald _____
 The Washington Daily News _____
 The Evening Star (Washington) _____
 The Sunday Star (Washington) A-2
 Daily News (New York) _____
 Sunday News (New York) _____
 New York Post WASH
 The New York Times _____
 The Sun (Baltimore) _____
 The Daily World _____
 The New Leader _____
 The Wall Street Journal _____
 The National Observer _____
 People's World _____
 Examiner (Washington) _____

Date OCT 11 1970

ENCLOSURE

COPY MADE FOR MR. TOLSON

OCT 22 1970

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. C. D. Brennan

FROM : R. D. Cotter

SUBJECT: TESTIMONY OF CHIEFS OF POLICE
E. M. DAVIS AND CHARLES R. GAIN BEFORE
SENATE INTERNAL SECURITY SUBCOMMITTEE
REGARDING ATTACKS ON POLICE

1 - Mr. Sullivan
1 - Mr. J. P. Mohr
1 - Mr. Bishop

DATE: 10/13/70

1 - Mr. Casper
1 - Mr. Rosen
1 - Mr. Gale
1 - Mr. C.D. Brennan
1 - Mr. Cotter

Tolson _____
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Gandy _____

The 10/11/70 edition of "The Sunday Star" carried an article relating that two chiefs of police disagreed on whether a national communist conspiracy is behind a rash of attacks and ambushes of policemen. The Director inquired "Just which one is right?"

This article reported testimony of Chief E. M. Davis of Los Angeles and Chief Charles R. Gain of Oakland, California, before the Senate Internal Security Subcommittee. Chief Davis said that recent attacks on police are part of a communist-inspired conspiracy that amounts to "revolution on the installment plan."

Chief Gain, on the other hand, testified that this attitude is "blindness" and would only lead to more killings. Gain expressed the view that underlying causes of violence are racial strife, the war in Vietnam and social inequities.

We have no knowledge of a specific communist-inspired conspiracy for gunning down police officers. There is some evidence that various extremist elements in the United States have had access to documents emanating from leftist extremists in South America. An example is the "Minimanual of the Urban Guerrilla," written by the Brazilian terrorist Carlos Marighella who was killed by police in November, 1969. This manual emphasizes the value of ambush attacks on police. Other documents are being circulated through extremist circles, some of which parrot the doctrine of MAO Tse-tung in which terrorism is an integral part. However, as indicated there is no evidence of any national communist conspiracy at this time.

Bureau files are being checked and you will be advised of any derogatory information located concerning either Chief of Police

ACTION:

ENCLOSURE

For information of the Director.

TJS:mea/lrs (9)

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OCT 22 1970

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SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL SECURITY LAWS

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J. G. SOURWINE, *Chief Counsel*
JOHN R. NORPEL, Jr., *Director of Research*
ALFONSO L. TARABOCHIA, *Chief Investigator*

(II)

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ASSAULTS ON LAW ENFORCEMENT OFFICERS

FRIDAY, OCTOBER 9, 1970

U.S. SENATE,
SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY ACT
AND OTHER INTERNAL SECURITY LAWS
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:40 a.m., in room 1202, New Senate Office Building, Senator Strom Thurmond presiding.

Present: Senator Thurmond.

Also present: J. G. Sourwine, chief counsel; John R. Norpel, Jr., research director; and Alfonso L. Tarabochia, chief investigator.

Senator THURMOND. The subcommittee will come to order. We shall now resume the hearing. The first witness this morning is Chief E. M. Davis, from Los Angeles, Calif., Police Department.

Chief Davis, come around and have a seat. We are ready to hear you. Do you have anyone with you, Chief?

STATEMENT OF E. M. DAVIS, CHIEF, POLICE DEPARTMENT, LOS ANGELES, CALIF.

Mr. DAVIS. No, sir.

Senator THURMOND. We are glad to have you here. Thank you for coming and we will be pleased to hear you now.

Mr. DAVIS. Thank you.

I have carefully read the four bills which—I think this committee has entertained three; is that right?

Mr. SOURWINE. All four bills are before us.

Mr. DAVIS. I see. All four bills are before you. I think the time has been here for a long time that requires the Government of the United States to protect itself against total dissolution. These bills, which do many things, including making it a Federal crime to assault a policeman doing his duty or a fire officer or a judge, these bills which set up a special provision for unlawful flight to avoid prosecution, and the bill, S. 4403, which deals to a very great extent with the use of incendiary devices and explosive devices, are long overdue. I think S. 4359, which is about the only way that this Republic is going to survive, and I would like to quote, if I might. It says without pardon to the immediate profitable effect of such action, whoever knowingly or willingly advocates, abets, advises or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the Government of the United States or the government of any State, territory, or district or possession thereof—and then goes on by force or violence

or by assassination of any official, is absolutely vital. Because this Government is not going to be overthrown by overthrowing the National Government. It is being overthrown. We have revolution on the installment plan. It has been going on for several years. It is going on everyday now.

I might say that Angela Davis conducted a people's tribunal in Los Angeles. Her actions would have been covered in this. In this, she listed me and my boss, Mayor Sam Yorty, and my five police commissioners and many other officials, stating that her judgment and the people's tribunal was that we should be revolutioned to death.

Now, these are all matters that have been reported in the public press. But under the existing laws of the United States and the laws of the State of California as they have been interpreted by the supreme courts of both of those States, advocating the violent overthrow of any portion of the government, there is absolutely nothing we can do now. That is firmly protected by the first and 14th amendments.

I would like to say about bombings that the only reason the city of Los Angeles has not had the bombings that other cities have had, I think, is because we have, at an expense of \$3 million a year, locked up every important facility on the same basis that defense plants have been locked up for years. So when you walk around the police building in Los Angeles, you must have your identification card on you. This steals protection from the people out on the street.

Mr. SOURWINE. Of course, this is necessary, Chief, but it is a commentary on the situation that exists that the police are, in effect, under siege in their own police stations, is it not?

Mr. DAVIS. That is right. We watch the bombings in New York and Oakland and San Francisco and Omaha and many other places. We in fact uncovered a plot for our main building to be bombed. They had selected the location of the bombing. So very reluctantly, we had to steal protection off the street just to keep a police station open.

Our district attorney's office in Los Angeles was bombed, so now that building has to be locked up. The revolutionaries are running loose on the streets with all of their freedom and the people are locked up in their homes and locked up in their public buildings, even.

Senator THURMOND. Go right ahead, Chief.

Mr. DAVIS. Well, in the matter of deaths of police officers, while we have had higher than our usual casualty rate this year, we think the significant change is on the assaults with firearms against police officers. I am taking a period of 1960 to 1969, and in the early sixties, there were about 30 assaults with firearms on police officers in the city of Los Angeles. This jumped up in 1965 to 85 assaults. It is now running at about 150 assaults. These are assaults, actually shooting at policemen.

Senator THURMOND. Are you speaking of annually, 150 annually?

Mr. DAVIS. This is annually, shooting at officers. We have had many ambush situations that we have frustrated with good tactics, with good marksmanship, and sometimes with prior knowledge. There are constant attempts.

Before we raided the Black Panther location on December 8 of last year, for many months—and we recited this in the applications for search warrants—our officers, in driving past these locations, would have firearms pointed at them and trained on them and following them

and tracking them as they drove down the street. Just before we got the warrant, a machinegun was trained on and tracked and followed police cars driving down Central Avenue in Los Angeles. You know, we made a raid there and there are criminal cases under investigation, and I do not want to say more than that, but I wish the committee would give consideration to not just assaults, but also to the pointing of weapons at police officers. Now, in these cases where the guns were trained on the officers, there were not shootings. We gathered this evidence and went to the court and executed lawful search and arrest warrants. So I think perhaps you might think about the mere aim of a firearm at a peace officer coming within the purview of the legislation that has been drafted here.

Now, I would like to comment on S. 4359 that in the building of conspiracy cases under the existing California statutes, this is an extremely difficult job to do that requires a conspiracy of two people and an overt act in furtherance of that conspiracy. But this mere advocacy or teaching has been going on. I have personally sat on forums on college campuses and been surrounded by Marxists on both sides of me, openly advocating the violent overthrow of the Government of the United States. We have this going on on a day-by-day basis, on violently overthrowing some segment of government, be it a city or police division or a school. With the passage of this law, I think this Nation could again get some sanity back into its own security. Right now, the public officials are absolutely at the mercy of conspirators who have decided to overthrow this Government. They are doing it with impunity and immunity at this time. They are doing it on the installment plan and it is going to continue to get worse. Because they are finding an adequate number of shock troops to go in and offer themselves to be murdered.

In the Brown Beret organization which found its birth in the city of Los Angeles, out of the church in the East Side of Los Angeles, when our Governor, Governor Reagan, was talking at one of our biggest hotels, the Biltmore Hotel, the Brown Berets went in and tried to burn it down. A fire was set in numerous locations.

After leaving the hotel, they went to a Safeway Store and firebombed the store. We were able to make arrests and prosecutions, and I can say this now because this man is out from undercover, because one of my men had been able to work his way into the confidence of this organization. There are young men like Brown Panthers who are willing to go out and take risks to bring off the revolution.

In the case of the Black Panthers, in my area up in the high rent, silk stocking districts, there will be dinners and parties given by whites, Marxists, who will raise the money, provide the guidance and materiel, and there are enough Black Panthers willing to go out and risk their lives for the cause of revolution. So the Black Panther winds up being an Uncle Tom to a white Communist, a handshaker to a white Communist. The people who are behind this, who raise the money—rather brazenly and openly in most occasions—again have immunity under the laws as they are now constituted. The Friends of the Black Panthers, of course, as you know have been changed from the Friends of the Black Panthers to CUPP, Committee United for Political Prisoners. They are functioning very effectively and efficiently.

The killing of policemen until recently has been a phenomenon of the tragic breakdown in the parole and probation system of this Nation. I look over the statistics of the historic deaths of officers, but in many major cities, apparently now it is just an out and out matter of walking up behind a man and committing an open assassination, as was portrayed in the film, *Algiers*, which I would suggest that everybody who is interested in this subject should see, what happened in the early days of the takeover of Algiers.

So unless the cities are helped, and the help moneywise from the Federal level has amounted to nothing—and I do not think money can win this battle. I think this battle has to be won by law and judicial system, the combination of law and the judicial system which allows a country to actually protect itself. The men who had the revolution here and organized this country ran the risk of hanging by the neck until they were dead if they were lost. The people who are tearing it apart today have all of the great court decisions that have come down in the last 10 or 15 years to hide behind to further perpetuate the revolution.

So I cannot say too much in favor of this. I certainly think that the authors were very, very farsighted in putting this surge of bills together. Because I do not think there can be such a thing as the Federal Government unless there are local governments and unless the Federal Government recognizes that and moves in as they have indicated they will here, with the help, I am sure, of the FBI, there will not be an America.

Thank you very much.

Mr. SOURWINE. Mr. Chairman, may I inquire?

Senator THURMOND. Yes, you may.

Mr. SOURWINE. Just one question. I want to be sure the record spoke clearly on. Chief. If I understand you correctly, you support all four of these bills?

Mr. DAVIS. Yes, sir.

Mr. SOURWINE. Is it your position that you would like to see the provisions of all of the bills enacted insofar as they do not duplicate one another?

Mr. DAVIS. Yes; I would strongly support all the bills and I think the duplication is minimal. There might be a little editing that would change that. I would most strongly endorse Senate bill 4359 by Mr. Eastland. But I think the others are also very, very vital.

I will tell you one thing that might just add something. Getting young Americans to become police officers is an extremely difficult thing. My city, and I think it represents most of the cities of this country, has just a fraction of the number of policemen they need just to deal with the domestic criminal problem, not with revolutionary problems. You cannot get young men to come in. We are getting about one-half of what we are authorized to get. We are having to divert into intelligence efforts and security efforts a good percentage of the manpower that normally protected people against garden variety burglars and robbers. This, I think, is an obligation of the Government of the United States of America, either through money or law or the judicial system or whatever. We do not see that help forthcoming until we have seen these bills introduced in the Senate.

Mr. SOURWINE. Chief, you have indicated that you feel that there is a conspiracy against the police. Is this conspiracy, in your opinion, harming the efficiency and effectiveness of the municipal police forces in the major cities of this country?

Mr. DAVIS. I think it certainly is. The necessity to put policemen on fixed post duty guarding police stations against bombings shows we are converting to a civilian guard category for that, because policemen do not like to work as night watchmen.

Mr. SOURWINE. Is there any question in your mind that if this continues, it poses a real and present danger to the security of the country?

Mr. DAVIS. Well, as you know, my department pioneered in intelligence work. Since I have been in, I have virtually doubled my intelligence capacity, because intelligence 20 years ago, when we started it, was essentially a matter of keeping organized crime out of the city. We found we have been gradually borrowing organized crime-type intelligence people into disordered-type intelligence type. So through a reorganization and some budgetary allocations, I have virtually doubled my intelligence capability. The morale of the men who can cope with a normal stickup man—they can anticipate him; they cannot think of how to cope with the man who will ambush you.

Two of my men were sitting on a robbery stakeout. Two Black Panthers came up from behind, one with a shotgun, one with a carbine, no warning, fired into the back of them. Fortunately, only one man was hit but not critically. They had to shoot it out, killed one Panther and we arrested and prosecuted the second one.

Well, this is an unknown type of terrorism that I do not think any other public figure in the United States has ever been subjected to except a policeman. He is a man who not only has to worry about conventional enemies, but he has to worry about the unconventional enemies of society. There is no doubt in my mind that there is a conspiracy to eliminate the police, genocide against the police, to use their own term. There is organized genocide against the police. The Angela Davis People's Tribunal that condemned me and my bosses to be revolutionized to death is pretty good evidence of that genocide. It is going to get a lot worse before it gets better unless we start moving in more rapidly with more resources. When your individual cities disintegrate, it does not take the majority, 51 percent, to come off with a revolution. This country, fortunately, does not have a disadvantaged proletariat, maybe because the labor unions have done such a good job bringing wages up, so there are desperate attempts on the part of the Communists to hitchhike on every kind of movement that comes along.

In my city, 1 year ago, they made a judgment that they were giving up on the black community, it was not productive enough. They said, we are going to go out in the Mexican community and we are going to get something done there. And they did. They have spawned numerous organizations in that area. You have read in the paper the results of this.

Now, I do not believe in just getting information from my intelligence sources and just putting together a professional judgment after 30 years of experience, but I sent teams of Mexican American and black and white policemen out and did public opinion surveys in those communities. In the Mexican-American community of Los

Angeles, about 15 percent of the people attributed the big disorders that happened on the East Side, mainly in the unincorporated territory, to Communist agitators. Now, I think those people know what they are talking about. They saw it on a day-to-day basis. So it is very apparent out there in the hinterlands what is happening. I certainly hope it is as apparent to the rest of the Congress as it is to the four men who had the foresight to bring this kind of legislation in here. So I have no question about the revolution. It is an installment plan revolution, it is going to go as long as they can get cannon fodder, and whether America's life quality remains what it was is going to depend on what this Congress does.

Mr. SOURWINE. I have no more questions, Mr. Chairman.

Senator THURMOND. I notice you referred to the expression "revolution on the installment plan." I believe that is the first time I heard the expression just that way. I might say it seems to be very appropos. In other words, there are assaults being made on the police today, bombings, people going State to State and rioting, and the other actions being taken are really no less than revolution; are they?

Mr. DAVIS. No.

Senator THURMOND. Except it is not just one big revolution, an uprising over the whole Nation at once, but it is anarchy and it is no less than true revolution except, as you stated, on an installment plan?

Mr. DAVIS. That is right. Because of the lack of the downtrodden proletariat that existed in Russia at the time of the revolution, and the labor unions have frustrated that because the average worker has a camper and a boat and a trailer, and a nice little house in the suburbs. Not everybody is doing well in America, but we are doing something about that. So every movement that comes along, and most of them are good movements, to improve the lot of the black people or Mexican Americans or Puerto Ricans or even the "Lib" movement with women, or the ecological movement, and we see the same names and faces moving in, taking over and trying to cause trouble on whatever the issue is, so that altogether, they can take over a segment at some time and if they can ever wire them all up together and get enough people at one time, then you can come off with a revolution.

So I think the reaction of the people in this country, the great bulk of the black people, our estimate is that fewer than 3 percent of the black people in my city want anything to do with Marxism and even less than that in the Mexican-American community. But more than that in the white community. But altogether, a small, tiny fraction, minority, of people want that sort of thing. The rest of the people are repulsed by it. So I think what you see today in these terroristic bombings of business establishments and universities and police stations and courthouses is a desperation attempt in the 11th hour—they thought they had something great going—and things are going to get a lot tougher before they taper off, as long as they can bring this cannon fodder in to do the job. So it is revolution on the installment plan and if you thwart it now, it will wait and they will come back and regroup and try it again. But this would really be a decisive blow in favor of liberty for the people of the United States of America.

Senator THURMOND. Your principle, I can see from what you say, is that those who participate in this kind of revolution constitute a very small percentage of the population, but they are bold, they are

aggressive, they are lawless, they are ruthless, and they kill the guardians, so-called, of the people, the police, if they can, or assault and intimidate them. Is not one of the purposes of this to intimidate police in order to discourage policemen from doing their duty and to discourage the police from recruiting new members into the police departments? Because a woman might say to her husband, why should you go into the police department and run the risk of getting killed, leaving me a widow with children, when you can get some other job that would pay you more money and your life not be jeopardized? Do you conceive that to be the case?

Mr. DAVIS. Well, I think there are great universities in America, sections of great cities, where the residents and even the police are afraid to walk at night. When you can get a sufficient reign of terror going to where no one will go in and police it or where police are ineffective, then in effect, you can more easily accomplish your revolution. That is the direction in which we have been heading for some time.

I cannot tell you what makes a man want to be a policeman today, but thank God, we have a few who will still come in and do it. The people, by and large, are highly supportive of them, but they are not supportive in an overt fashion. They are a silent majority. They have sat silently and watched this happen.

Now, they like what you are doing; what you are trying to do. But if it is not done soon, and if the policemen ever go away, if it just happens we cannot recruit policemen and you are at the mercy of not only the revolutionaries but the vast criminal army that far outnumbers the police—going back over the killings of our officers over the last few years, they are virtually all parolees and probationers. So these people could easily be exploited by the other side to again be the shock troops and the cannon fodder. So I would say the hour is very, very late.

Senator THURMOND. If these groups can intimidate the policemen from performing their duties, as they should be performed, then the public has no protection, has it?

Mr. DAVIS. Absolutely not.

Senator THURMOND. And once it reaches the point where the public has no protection, these groups then are accomplishing their goal and will become more and more militant, and then a very small percent could take over a city or a large area, could they not?

Mr. DAVIS. There are two specters that worry the chief of police in this area. One is that if the police are sufficiently consumed in guarding police buildings and public buildings and taking care of rampant crime, then the revolutionaries could well take over the city. And you will probably see that unless something is done about it in this decade, where parts of the country are taken over.

The other specter is that the silent majority, most of whom have guns in their homes—there are many more guns than policemen; there are more guns than people. If you ever get the people of this country to taking the law into their own hands, then we will have a state of chaos that would be extremely difficult to recover from. The frustrated people of this country who, of all races, black and white and of whatever ethnic derivation, are all afraid and are all waiting and are all ready and we are scared to death of all those guns in all those homes. And they are there, believe me, in great, great numbers.

Senator THURMOND. If it reaches a point in time when the police can't protect the public then, as you say, the members of the public with guns in their own homes will, of course, try to protect themselves.

Dr. DAVIS. Then they will be doing it with absolutely no process of law. If their prejudice happens to be anti-black or anti-white or anti-Puerto Rican, whatever it happens to be, that would be one of the most chaotic situations this country would ever face.

Senator THURMOND. Then you would have a terrible situation.

Mr. DAVIS. Because you have to train a policeman, you have to wring his prejudices out of him, you have to teach him the law, he has to go through the courts, he does not make these judgments of guilt or innocence. If you have vigilantes taking over, I can think of nothing that would be a greater reign of terrorism than that.

Senator THURMOND. I believe you stated a few moments ago that these people constitute only a small percent, that the great majority of people, black and white, all races, want law and order, they want conditions where it is safe to walk on the streets and to go from one place to another without hazard. So what is taking place in this country is not that the majority of people are all responsible for what is coming about, but a very small minority who are evidently against this structure of Government, the American form of Government, and they are, stage by stage, taking steps to try to destroy it. Is that correct?

Mr. DAVIS. I think that is absolutely right and they watch; a new movement comes out and they will hitchhike on that movement and take it for everything they can. Then they will go back and get the next wave coming in, put their surfboard on it and ride in on that, unrelentingly, day in, day out.

Senator THURMOND. Previous testimony here indicated that the attacks on police in different cities of the Nation and bombings, too, had been very similar, that the technique is similar, the strategy is similar, the methods used are similar, indicating that there is a common bond among these people, there are communications among them from one part of the country to the other. What is your opinion about that?

Mr. DAVIS. There is absolutely no question about that. We simultaneously have demonstrations all over the world on the same day. When one of our great public universities was put under siege and we had to go in and clean the demonstrators out, send them to jail, the remaining people took over the student union building. We found that the first thing they did was get on the teletypewriters and the telephones at the expense of the State of California and start contacting their revolutionary counterparts in other colleges and universities around the country. There is no question about the good organization of the revolution.

Now, the cool heads at the top worked with a long stick, as they call it, and the speed with which it goes depends on the cannon fodder you can put in at the tail end, such as the Black Panthers and the Brown Berets. They are highly coordinated.

In our East Los Angeles demonstration, we had a truckload of people come in from New Mexico with guns. We arrested them in our city.

Down in Los Angeles during the moritorium demonstration, we arrested three Brown Berets from Chief Guin's Oakland, Calif., with several weapons, with a kit that contained medical gear, a map of

East Los Angeles, and with literature, Communist literature, in the bag.

Senator THURMOND. Did you say Communist literature?

Mr. DAVIS. Communist literature in the bag. This was not interstate. This was from Oakland, Calif. You had the same thing from San Diego, Calif. And the communication preceding the moritorium day parade in Los Angeles, the East Los Angeles thing, was widespread. The participation was interstate. It is bring your own guns. That has been advocated.

In the Watts riot aftermath 2 years ago, in 1968 or 1967, we had a very disastrous celebration of the rebirth of Watts after the riots. Through Black Panther instigation, there were virtual volley lines of shooting at policemen and policemen returning the fire of people shooting at them. This was stimulated by Black Panther activity.

A few days before that, in stopping four young men in the car, our men were shot at, two policemen, by four Black Panthers. There was a shootout, two Panthers killed, one got away, and we captured one. That was that festival celebrating the rebirth of Watts, a good form, this was turned into a virtual battlefield where three people were killed.

So this is not just demonstrations now. You have been in the vital stages of revolution on the installment plan all over the country for a good many years.

Senator THURMOND. Yesterday, the Sheriff of Buffalo, N.Y., testified. I gained the impression from his testimony that a considerable portion of this trouble—in fact I believe he said a majority of it—stemmed from the college campus. What has been your experience?

Mr. DAVIS. I do not see any great connection between a specific organization such as the Brown Berets and the college campus or the Black Panthers and college campuses as much as I do the swimming pool Communists, the silk stocking and wealthy types and those kinds of organizations. Now, there is an interrelationship. The Brown Berets was formed out of a church group in East Los Angeles. I hate to say some of the money I put in the plate in my church went toward that. It went toward the spawning of that revolutionary organization, which is self-avowed Marxists, which calls for the overthrow of our Government by force and violence.

So while the colleges have chapters of these organizations and they move in, I do not think the inspiration necessarily comes from college campuses. I think a lot of good help comes from there, but not necessarily the leadership.

Senator THURMOND. In other words, you feel that this is an organization with headquarters, so to speak, leaders who establish chapters on college campuses, who are spawned in the churches and who originate them or initiate them in other places, but that there is either a conspiracy or an effort on the part of people to destroy the American form of government?

Mr. DAVIS. There is absolutely no question about that, about the attempt to destroy the Government. Just where they are is a very loosely knit background organization, allegedly identified with the third world type Communist effort that all melds into the same thing.

Senator THURMOND. Whether you call it Communist, Marxist, subversive, un-American, what not, the purpose is to destroy the American form of Government as we know it today; is that right?

Mr. DAVIS. Right; and the current technique, and I think it is a very intelligent one for them, is if you do not do it by trying to defeat the U.S. Army on a face-to-face basis, you start doing it by blowing up the court houses, murdering the judges, ambushing and killing the policemen on the streets. At that level, you can get away with it. That is again why this legislation is so vital.

Senator THURMOND. So in the field that you just mentioned, as I understand, it is your thinking that the perpetrators of these crimes follow that tactic and that procedure because they feel they can count on getting away with it versus facing the Army?

Mr. DAVIS. Absolutely. It allows the provocateurs to interface with someone who has some kind of a grievance or a gripe about this country because of his ethnicity or his economic status or whatever. So it is the hitchhiking on a cause type of activity that we see great evidence of today.

Senator THURMOND. As I understand, you recommend this legislation in general because you feel it will provide a tool to the law enforcement people over the Nation to a system in keeping with this very serious problem?

Mr. DAVIS. Well, I see this as not only a tool, but that this will allow the Department of Justice, and I am sure you will back it up with the necessary funds if the legislation is passed, to actively get into the field of tying together the interstate nature, because while I am chief of police of a city and my men are police officers within the State, essentially, I am responsible for three million people in about 500 square miles. And the problem is a lot bigger than that. If we attack it on the basis of—my city is a small city compared to the whole population of the United States—on the basis of each city, there is a plan to tear down the Nation, so there has to be a national plan to protect the Nation. That is the way I look at your legislation here. I have not talked to any of the authors, but in looking at it, this looks to me to be a plan to protect the Nation.

Senator THURMOND. For a number of years, it has been apparent that people have traveled from one State to another to participate in and inspire riots. In the Chicago convention demonstration in 1968, people went there from New York, California, various other parts of the Nation and participated in or inspired riots there. So Congress saw the dangers of this and passed the Federal antiriot law of 1968. I happen to have been the author of that bill. And just as Congress visualized then the danger existing because of people crossing State lines and assembling and inspiring people to riot, they took action and you feel Congress should take action now in another field where it is a matter of national concern and affects the whole country?

Mr. DAVIS. Absolutely. I endorse that absolutely.

Senator THURMOND. It is a great pleasure to have you here, Chief Davis. On behalf of the committee, I wish to express my sincere thanks to you for coming here. Your testimony has constituted a very fine contribution to our hearings.

Dr. DAVIS. Thank you very much, Senator.

Senator THURMOND. Our next witness is Chief Charles R. Gain, Oakland, Calif., Police Department.

Chief Gain, come around and have a seat. Is anyone with you?

**STATEMENT OF CHARLES R. GAIN, CHIEF, POLICE DEPARTMENT,
OAKLAND, CALIF.**

Mr. GAIN. No, sir.

Senator THURMOND. Have a seat.

Mr. GAIN. Thank you, Mr. Chairman.

In giving consideration to the need for Federal legislation against the killing, assaulting or killing of police officers, I believe there is a need for us to establish the extent to which acts of this nature have occurred in various cities. I would like to review first several incidents which have occurred in the Oakland-San Francisco Bay area in regard to assaults on policemen, their vehicles, assaults upon police buildings, and other things. Because I believe that the similarity of these incidents as compared with those which have occurred in the country do show a common design, conspiracy, if you will, among some persons or organizations to travel interstate, communicate interstate, and bring these act about or to aid and abet in them.

Then I would like to speak briefly to the bills themselves. I have photographs illustrating some weapons that were used in some of the incidents I will refer to. Also, each incident I refer to I have supported by a copy of the official document from the city in which the incident occurred.

First of all, on October 28, 1968, one Oakland police officer was killed, another seriously wounded while they were in the act merely of writing a traffic citation.

On April 6, 1968, two Oakland police officers were fired upon by several persons. Both suffered wounds as a result, wounds of the back. I have a photograph which shows the weapons that were recovered at the scene where that shooting took place, weapons amounting to machineguns, shotguns, rifles and so on. It was a totally unprovoked attack upon two police officers of Oakland.

Mr. SOURWINE. May these photographs be received?

Senator THURMOND. Without objection, it is so ordered.

(The photographs referred to follow :)

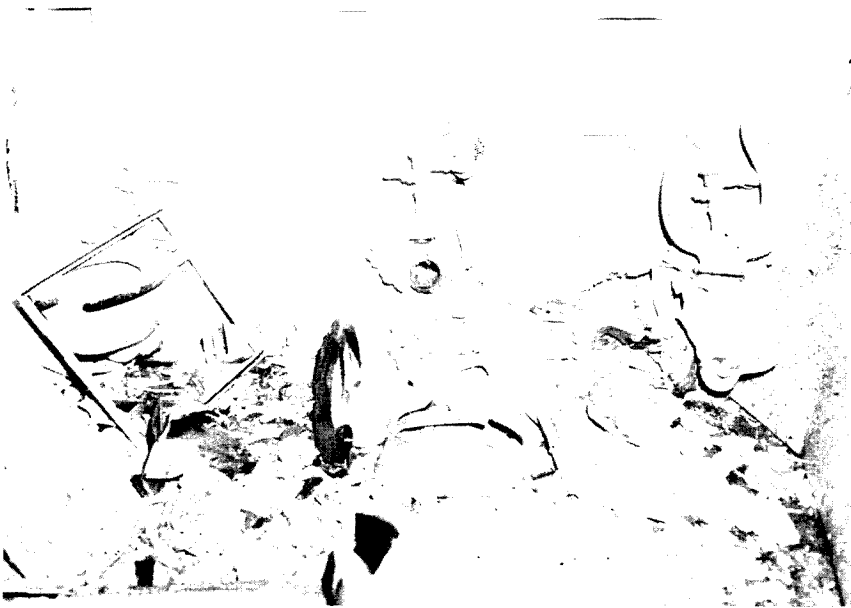


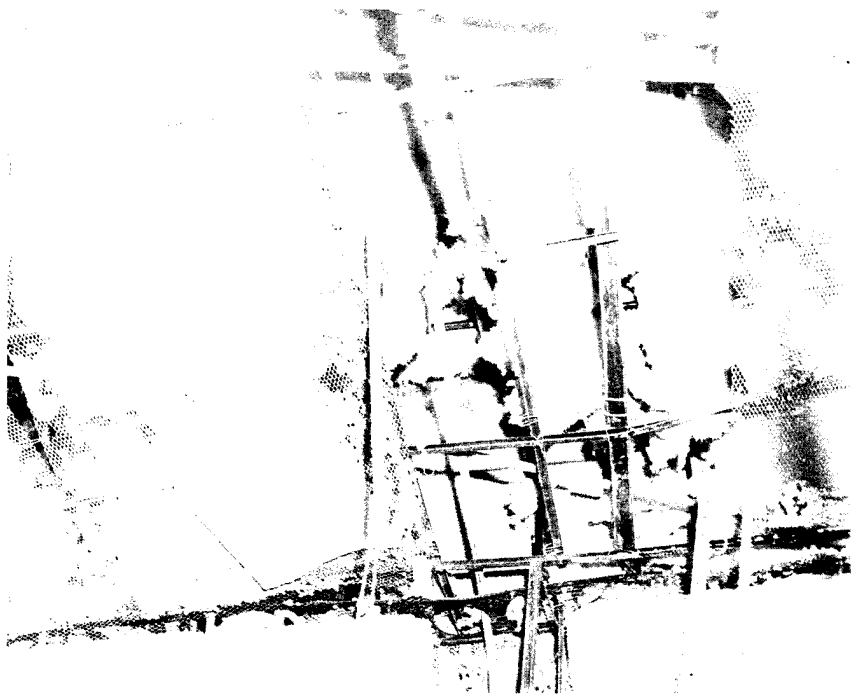
Mr. GAIN. On October 2, 1968, the first explosion by bomb occurred on the first floor of the Oakland Police Department police administration building. I have a photograph here which I would like to submit which shows the severity of damage resulting from this bomb explosion, a totally uncalled for and tragic event to occur in any police facility, one that has been replicated in several police stations throughout the United States since that time, if not before.

Mr. SOURWINE. May this be received, Mr. Chairman?

Senator THURMOND. Without objection.

(The photograph referred to follows:)





Mr. SOURWINE. May I ask one question at this point?

Senator THURMOND. Proceed.

Mr. SOURWINE. Were there any casualties from this first bombing that you have pictured here?

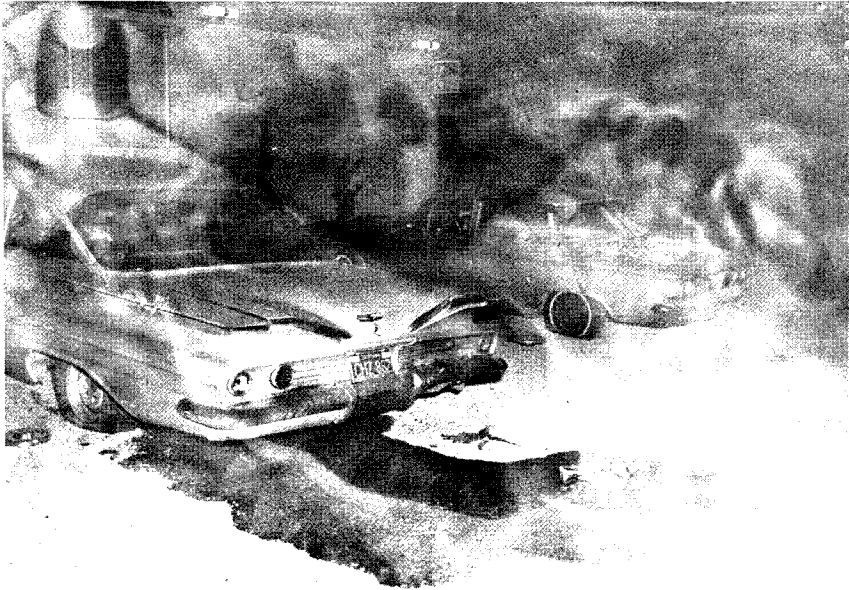
Mr. GAIN. Fortunately there were none from the bombing of the building.

The second incident I referred to was October 28, 1968, where the personal vehicles of two California Highway Patrol officers were parked in the California Highway Patrol parking lot while the officers were on duty, were damaged. These photographs show what occurred to two vehicles which belonged to the officers. They were parked in the lot. They were on duty. Someone placed a small bomb in the vehicles and did extensive damage to them.

Mr. SOURWINE. May they be received?

Senator THURMOND. Without objection, it is so ordered. Just pass those up.

(The photographs referred to follow :)





Mr. GAIN. The next incident was on November 13, 1968, wherein a Berkeley, Calif., police officer stopped a vehicle for traffic violation. After stopping the vehicle, he was wounded by gunshots fired from within the vehicle. The perpetrators later taken into custody were members of the Black Panther Party. I would like to submit to you a copy of the official report of that, and I will submit that later along with other documents.

Senator THURMOND. Without objection, it will be admitted.

(The report referred to may be found in the files of the subcommittee.)

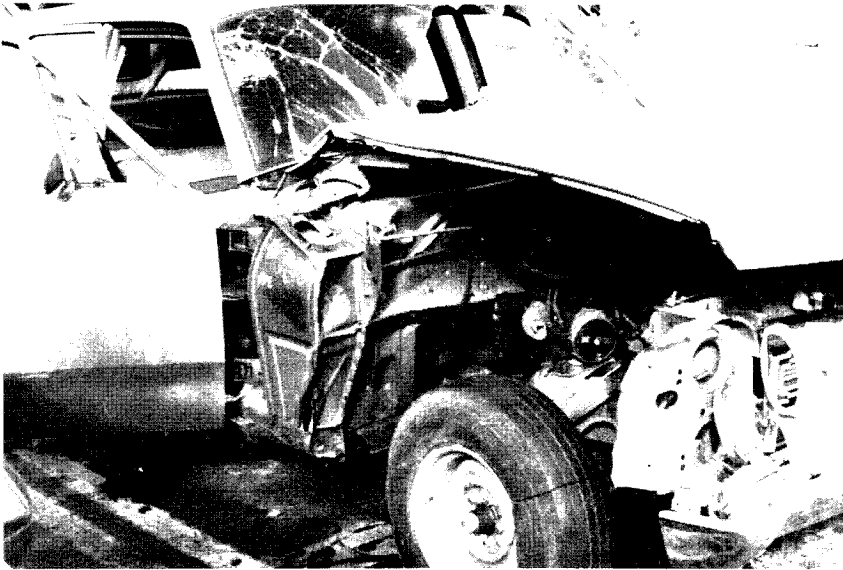
Mr. GAIN. The next was on November 19, 1968, wherein three California police officers were wounded by gunfire while in the official act of attempting to arrest six armed robbery perpetrators. Investigation of the incident established that all six perpetrators were members of the Black Panther Party. At the time of the incident, they were driving a truck which was used to distribute the newspapers of the Black Panther Party.

The next incident was on February 13, 1970. A bomb explosion occurred in the Berkeley, Calif., parking lot, which did extensive damage to police vehicles, window damage in surrounding buildings, and so on. I would like to submit photographs showing the extent of damage from that bombing.

Senator THURMOND. Without objection.

(The photographs referred to follow :)

BERKELEY POLICE DEPARTMENT BOMBING



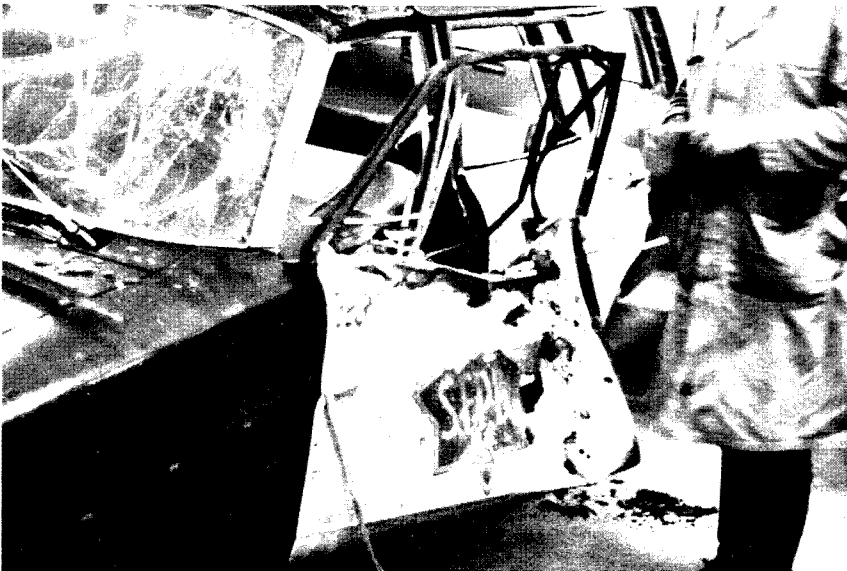


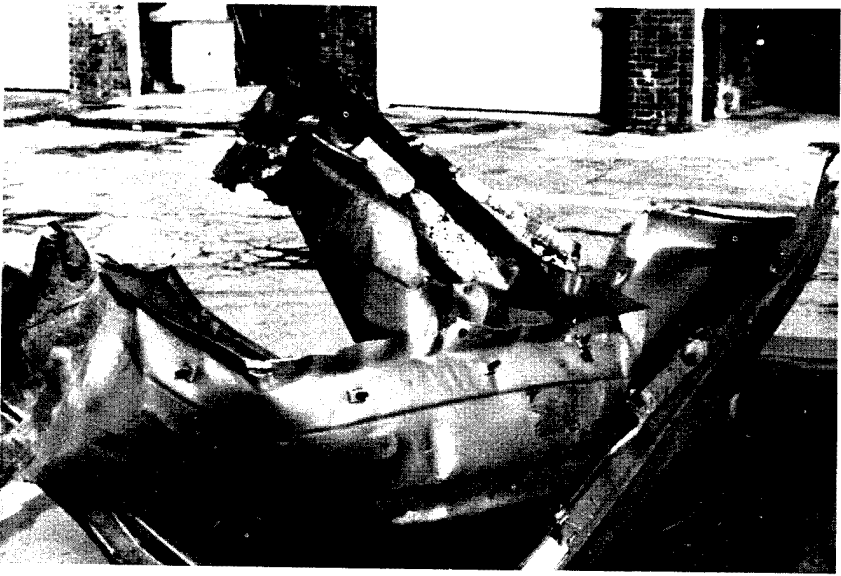
Mr. GAIN. February 16, 1970, explosive device detonated on the window ledge of a San Francisco police department substation. One San Francisco policeman was killed by the shrapnel from the explosion, eight policemen seriously injured as a result. There was extensive damage to the building itself and the vehicle. Again I would like to submit copies of the damage done to the vehicles and a copy of the official police report from San Francisco.

On April 7, 1970, three Oakland police officers were wounded by gunfire which resulted from a planned, vicious ambush by at least three persons who were lying in wait alongside the roadway. The vehicle was merely driving along the street. The fourth officer was wounded by gunfire while exchanging shots with the perpetrators. During the pursuit of the perpetrators' vehicle who were fleeing the scene, they not only fired at the officers through a variety of weapons, but also threw handgrenades at them from the fleeing vehicle.

I would like to submit photographs and a copy of the official report. The photographs show the police vehicle, several bullet holes in the glass and the vehicle. It shows the perpetrators' car, which we recovered, in which can be seen a machine gun and other weapons which were used in the unprovoked, totally uncalled for ambush.

Senator THURMOND. Without objection, it will be admitted.
(The material referred to follows:)





☒ INITIAL REPORT		☐ ARRESTED		LOCAL BUREAU REPORTING		CLASSIFICATION	
☐ SUPPLEMENTARY		☐ CITED		PICK		GEN. WORK	
TYPE OF REPORT BOMBING				DAY, DATE & TIME REPORTED FEB 2/16/70 10:44 PM			
ADDRESS/LOCATION THIS REPORT PARK POLICE STATION				DIST. F		DAY, DATE & TIME THIS REPORT RECEIVED FEB 2/16/70 10:44 PM	
REPORTER (LAST, FIRST, MIDDLE) OFFICER [REDACTED]		RACE, SEX, DOB [REDACTED]		ADDRESS PARK STATION		RES. PHONE [REDACTED]	
VICTIM (PERSON, FIRM) S.F.P.D. POLICE STATION		RACE, SEX, DOB [REDACTED]		ADDRESS G.G. PARK		RES. PHONE [REDACTED]	
TYPE OF PREMISES OR LOCATION OF VICTIM POLICE STATION				POINT OF ENTRY OR HOW ATTACKED OUTSIDE OFFICE WINDOW		OBJECT OF ATTACK POLICE PERSONNEL	
METHOD, TOOL OR WEAPON USED HANDGUNS				TRADEMARK PLACES BOMB AT WINDOW OF BUSINESS OFF.			
VEHICLE INVOLVED		LICENSE NO.		STATE		VIN.	
BODY TYPE		COLOR		WAIVER SIGNED ☐ YES ☐ NO		VEHICLE ☐ KEY IN IGNITION ☐ LOCKED ☐ UNLOCKED ☐ UNLOCKED ☐ OTHER	
VEHICLES CONDITION WHEN RECOVERED (A)		VEHICLE PLATES MISSING ☐ ONE ☐ BOTH ☐ NONE		HOW INCIDENT CLEARED (USE CODE) (B)		IMPOUNDED HOLD FOR	
VEHICLE OR PROPERTY RECOVERED BY (C)		NOTIFICATION MADE ☐ PARENT ☐ COMPLAINT		DATE & TIME REPORTED		DATE & TIME DISPATCHED	
SERVICE NO. F 7		UNIT SENT F 1		RADIO CODE 530		SENT TO (ADDRESS) G.G. PARK STATION	
						DATE & TIME DISPATCHED 2/16/70 10:44 PM	

1. AT A... 10:44 PM this date a bomb exploded outside the window of the business office of Park police station. OFFICER [REDACTED] [REDACTED] [REDACTED] checking out their radio car which was parked at the side of the station with radio car # 10 between their car and the window of the business office. OFFICER [REDACTED] over the radio car onto the pavement landing on his shoulder while OFFICER [REDACTED] was knocked to the ground unconscious. Neither officer had seen anyone in the area prior to the explosion. Inside the office Sgt. [REDACTED] and officer [REDACTED]

was knocked to the floor of the assembly room unconscious and officer [REDACTED] was cut by flying debris. At the time of the explosion, all uniformed officers at the station began to render emergency first aid (officer [REDACTED] and to secure and search the area outside of the station in an effort to find a possible suspect. As station communications were out, Patrol Special [REDACTED] was instructed to notify communications of the bombing and to request an ambulance code 3. Additional units responded and a command post was established by Lt. [REDACTED] the platoon commander. Lt. [REDACTED] responded and took charge of the scene, the crime lab was called and responded immediately. Chief of police Al Felder also responded and took command. The area of the explosion was roped off and the window sealed by the fire dept. radio car # 10 was towed to the hall. additional injury was sustained by officer [REDACTED]

2. NO SUSPECTS.
3. To be continued.

DATE & TIME REPORTED TO BUREAU FEB 2/16/70 7/ 11:00 AM		NAME [REDACTED]		733450		TOTAL POLICE VEHICLES	
INVESTIGATION OFFICER [REDACTED]		REPORTING OFFICER [REDACTED]		SAC [REDACTED]		COPIES FOR General Works	
[REDACTED]		[REDACTED]		[REDACTED]		14	
[REDACTED]		[REDACTED]		[REDACTED]		LIEUT	

INCIDENT REPORT FORM

RECORD ROOM

SAN FRANCISCO POLICE DEPARTMENT

☐ SUPPLEMENTARY	☐ CHED	PARK	KEY NO. 1-1-111 11111111
TYPE OF REPORT B MIBING		DAY, DATE & TIME INITIALLY SENT TO P.D. LON 2/16/70 610:44PM	
REPORTER (NAME, LAST NAME FIRST) Off. [REDACTED]	ADDRESS Park Police Station	ADDRESS/LOCATION (THIS REPORT) Same	

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3. cont. n7a

4. N7A

5. TREATMENT OF INJURED OFFICERS.

[REDACTED] TREATED AT MEHDR. SUETT. SHRAPNEL IN HEAD AND FACE.
IN SURGERY AT TIME OF REPORT.[REDACTED] TREATED BY DR. [REDACTED] MEH UNDERWENT SURGERY,
CONDITION CRITICAL.

[REDACTED] TREATED AT MEH DR. [REDACTED] BLAST INJURY.

[REDACTED] TREATED PER DR. [REDACTED] CONTUSION AND ABRASIONS

[REDACTED] TREATED PER DR. [REDACTED] CONTUSION OF RIGHT SHOULDER

[REDACTED] TREATED PER DR. [REDACTED] TINNITUS (RINGING EARS.)

[REDACTED] TREATED PER DR. [REDACTED] SHOCK

[REDACTED] TREATED PER DR. [REDACTED] SHOCK

[REDACTED] ? in shock.

6 NA

INVESTIGATING OFFICER(S)		DETAIL	STAR	DATE & TIME (DICTATED)	COPIES FOR:	TOTAL POLICE VALUE
[REDACTED]				1-1-111 11111111	Gen. wks. 14	
TYPED BY (NAME)		STAR		RECEIVED BY	RANK	STAR
[REDACTED]				[REDACTED]	LEUT.	

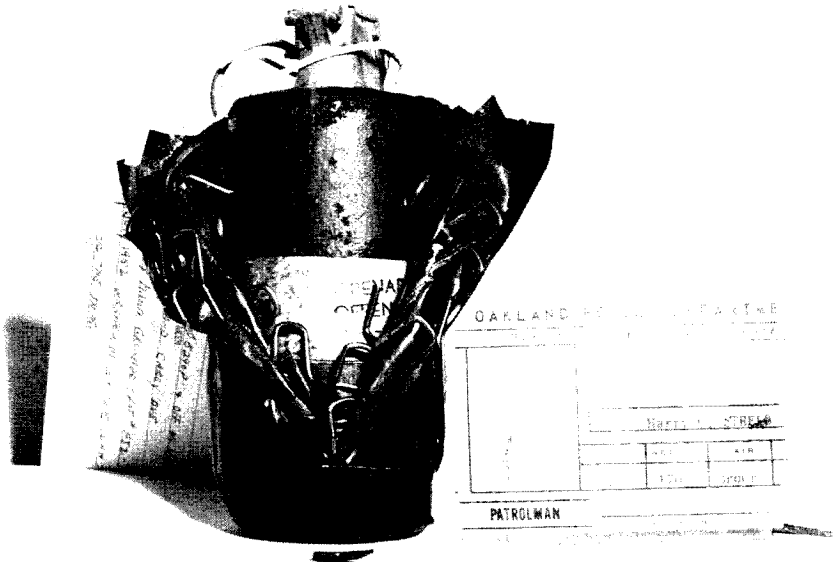
CONTINUATION REPORT FORM

RECORD ROOM

SAN FRANCISCO POLICE DEPARTMENT

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Mr. SOURWINE. Chief, at that point, at what time of day did that attack take place?

Mr. GAIN. This last one occurred during the evening hours, approximately 11 o'clock, as I recall.

Mr. SOURWINE. Where was it, on a downtown street, on a residential street?

Mr. GAIN. It was on a residential street. One known, incidentally, by many people to be frequently traveled by police vehicles.

The next incident was on June 4, 1970, where two Oakland police officers were conducting a routine security survey of a business establishment. They parked their vehicle on a street nearby. After exiting the vehicle, a bomb blew it up, which was presumably placed in the vehicle after they parked it. I would again like to submit a photograph showing the extensive damage, totally demolishing the car, and a copy of the official report.

Mr. SOURWINE. May it be received?

Senator THURMOND. Without objection, it will be admitted.

(The material referred to follows:)





CRIME REPORT				CITY OF OAKLAND			
1. DATE AND TIME 0 4 17-54-0				2. CITY AND COUNTY OAKLAND			
3. TYPE OF CRIME BOMBING				4. REPORTING OFFICER'S NAME AND RANK 455 7th St Pomeroy 1400 Bk Fruitvale Ave			
5. TYPE OF LOCATION ON PREMISES STREET				6. LOCATION OF CRIME 1400 Bk Fruitvale Ave			
7. TYPE OF VEHICLE VEHICLE				8. TYPE OF VEHICLE VEHICLE			
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ADDITIONAL CHARGE 12366 H.S.C.

11 All evidence turned in by Tech's [redacted]

Officers [redacted] were E/B on 314 th St.

in vehicle #1747 at Fruitvale when R/O's observed possible juveniles in the Alpine Pool Hall located at 3135 E 14th St. R/O's then proceeded to 34th Ave made a left turn and proceeded N/B one block to Farnam St. & then made another left turn onto Farnam and proceeded W/B to Fruitvale Ave. At Fruitvale R/O's made another left and proceeded S/B to E 14th St. At this location Officer [redacted] exited the Police Veh. in an attempt to

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CHARGE BOMBING (375 P.O.) EXPLOSION (12354 E. 2 S.) COMPLAINT'S NAME CITY OF OAKLAND	ARREST NO. AND DATE PAGE-SLEETS 0	3 EXTRA COPIES 4 PAGES 0 1	CONTINUATION REPORT OAKLAND POLICE DEPARTMENT CITY NO. 10-37583
SEE PAGE AGE 8 COMPLAINT'S ADDRESS		SEE PAGE AGE 10 DEFENDANT'S NAME	
SEE PAGE AGE 10 DEFENDANT'S NAME		SEE PAGE AGE 10 DEFENDANT'S NAME	

prevent any juveniles from exiting the Pool Hall. Meanwhile Officer [redacted] who was driving Veh #1747 backed the Police veh approx 30 feet and parked it. Officer [redacted] joined Officer [redacted] inside and started checking I.D.'s of players in the Pool Hall. Meanwhile Officer [redacted] talked with the manager [redacted]. After Officer [redacted] completed the conversation and noticing Officer [redacted] had completed his checks Officer [redacted] then started to exit the Pool Hall. Approx 10 feet from the front door a loud muffled explosion was heard by both R/O's Officer [redacted] followed by Officer [redacted] ran out and observed that the Police Vehicles interior was engulfed in flames. The windows of the veh were blown out and flames were coming out approx 3 feet above the top of the veh. The flames seemed to be extremely intense with black smoke rising from the veh. No Vehicles were seen going in either direction on Fruitvale nor was there any foot traffic in the area. Officer [redacted] then ran over to the call box and notified radio. Both Officers then cleared the area until additional help arrived.

The total amount of time spent in the Pool Hall was approx 2 to 3 minutes

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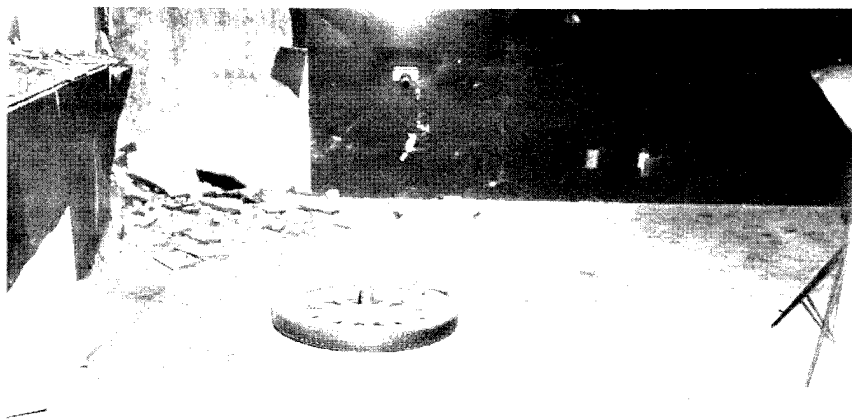
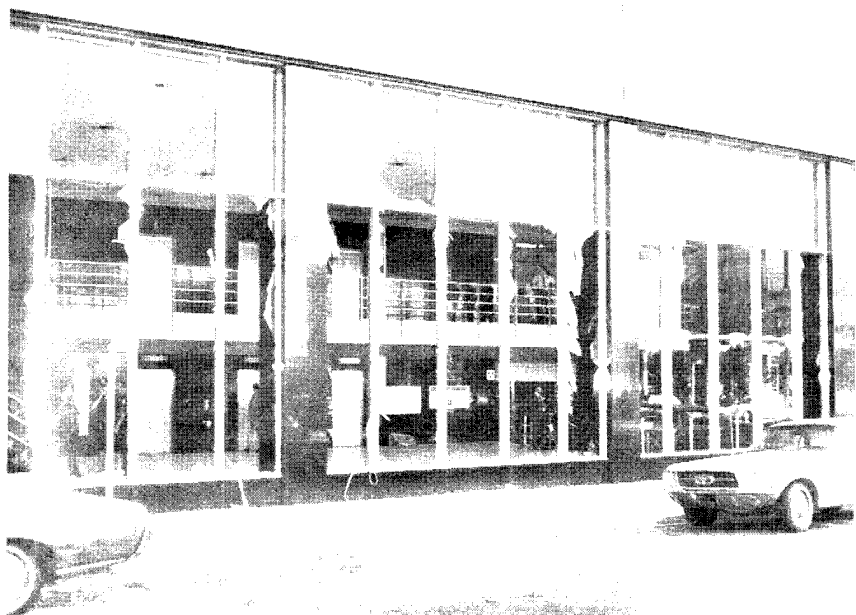
Mr. GAIN. The next incident in the bay area occurred on June 5, 1970. A live bomb was discovered underneath a police vehicle which was parked in the Berkeley Police Department parking lot. Fortunately, the bomb was removed safely.

On June 17, two separate bombs exploded in a drive-in restaurant in Emeryville, Calif., a city contiguous to Oakland. It caused major damage to the building. After the explosion, investigating officers discovered two additional bombs which had not detonated. The explosion occurred at the approximate time the Emeryville police department officers were known to be there for the purpose of having a coffeebreak.

On June 19, 1970, a San Francisco policeman, who was merely sitting in his patrol car while writing a traffic violation for an unattended, illegally parked vehicle, was fatally wounded by gunshots. Neither the owner of the parked car nor any other person was near the vehicle when the officer was shot, nor had there been any interaction between any other person and the police officer. It was a wanton murder.

On June 19, 1970, a bomb exploded again in the Oakland Police Department. It was the second bombing in 2 years.

I submit a photograph showing the extensive damage of the Oakland Police Department building. As a result of this incident, I have now placed a maximum security guard on the Oakland Police Department administration building, consisting, at the present time, of a need for four policemen to remain in the lobby 24 hours a day. We further do as other Oakland Police Department's have done, now institute a system starting at 5 o'clock at night, lasting until 8 o'clock in the morning, where if anybody wants to come in, they must submit to a search of anything they have in their hands, such as a briefcase or whatever. It is obvious when there have been two bombings of a building, there is potential for further bombings.





In addition to the damage itself, our insurance carrier of the city of Oakland is increasing its deductible from about \$1,000 to \$50,000 damage.

The next incident is on July 22, 1970. An explosive device detonated near the California Highway Patrol office in Oakland. It had apparently been thrown from a nearby overhead freeway.

On October 2, 1970, a Berkeley Police Department patrol car was destroyed by fire after a small explosive device detonated under the gas tank while the officer was driving the vehicle. Fortunately, no injuries.

On October 6, 1970, a San Jose, Calif., police officer was murdered as he sat in his patrol car while writing a traffic citation. The perpetrator was not involved in the traffic violation and incidentally was unknown to the person who committed that violation.

Mr. SOURWINE. In other words, chief, the officer was ambushed when he was attempting to write a traffic citation?

Mr. GAIN. Whether ambush would be the appropriate word, I do not know. I do know he was fulfilling a routine duty, in fact, when someone came up and killed him. That might be called an ambush. It was totally unprovoked, uncalled for. That person who perpetrated the crime had nothing to do with the incident in which the officer was engaged.

The last incident occurred on October 20, 1970, when a Berkeley police officer was discussing a minor traffic violation with a motorcyclist, standing on the street. A person totally uninvolved in the incident in any way walked up to the officer and the motorcyclist, engaged the officer in a brief conversation, and then, without any

warning or any inducement, produced a small handgun and shot the officer in the face, killing him.

Mr. SOURWINE. Chief, did you say October 20, 1970?

Mr. GAIN. I am sorry, July. You flatter me. You are very attentive this morning.

Gentlemen, I have reviewed about 17 incidents here wherein policemen have been injured or killed or buildings bombed, totally without provocation. I related before that I concluded, because of the similarity of these incidents in other parts of the country, mainly in cities basically of the same nature, it connotes to me a common design, a conspiracy, if you will, among some persons or groups to murder the policemen, very definitely so. It is having, of course, as has been alluded here before this morning, a very adverse effect upon the morale of policemen. We have a condition where a policeman fulfilling his duty can be subjected to be murdered. It is obvious the intense feelings, the fear, if you will, and a reasoned fear, that policemen would have. It is a difficult situation.

Speaking to the legislation itself, I feel definitely it is needed. The proposals would enable authorities to punish conduct that at least in some jurisdictions does not now constitute criminal behavior. It would, in addition, and more significantly, enable Federal agencies, presumably the Federal Bureau of Investigation, to give greater assistance to local authorities and local police agencies. Hence, for these reasons, I support the bills.

Speaking briefly to the bills, I want to summarize some thoughts. I have detailed comments I would like to submit in regard to them which were prepared by Mrs. Linda Moody, my legal adviser in the Oakland Police Department. I would like to submit my written testimony and detailed comments.

Mr. SOURWINE. You want these comments to be laid into the record?

Mr. GAIN. Yes, I do. I have detailed comments with regard to the legislation. I have concern in some areas on the constitutionality.

Senator THURMOND. Would you want those to go into the record at this point in your remarks or at the conclusion of your testimony?

Mr. GAIN. Either one, Mr. Chairman. They are here and I have a copy, so they can go now or later.

Senator THURMOND. They will be admitted in the record in the appropriate place.

(The material referred to follows:)

PREPARED STATEMENT OF CHARLES R. GAIN, CHIEF OF POLICE, OAKLAND, CALIF.

In giving consideration to the need for federal legislation relating to the assaulting, injuring or killing of police officers because of their official character one must, of course, determine the extent to which police officers have been subjected to assault, injury or death because of their status as policemen. The purpose of my testimony is to review briefly several incidents which have occurred in the San Francisco-Oakland Bay wherein policemen were assaulted, injured or killed under circumstances wherein it was manifest that the acts were perpetrated against the individuals solely because of their official character or status as policemen; further, several incidents will be reviewed wherein police vehicles, the personal vehicles of policemen, or police buildings were bombed under circumstances which would or could have resulted in serious injury or death to policemen. My remarks concerning some of the incidents will be necessarily brief owing to the fact that criminal proceedings are either pending or are now in progress.

On October 28, 1967, one Oakland police officer was fatally wounded and another was seriously wounded while the officers were in the act of issuing a traffic citation.

On April 6, 1968, two Oakland police officers were fired upon without provocation by several persons; both officers suffered gunshot wounds of the back. Appendix 1 consists of a photograph of the weapons used in the attack upon the officers and a copy of the official report of the incident.

At 6:00 P.M. on October 2, 1968, an explosion occurred in the women's restroom on the first floor of the Oakland Police Department Police Administration Building, causing extensive damage. Appendix 2 consists of photographs showing the damage and a copy of the official report of the incident.

On October 28, 1968, the personal vehicles of two California Highway Patrol officers, which vehicles were parked in the California Highway Patrol parking lot in Oakland, were damaged by an explosive device. The two officers were then on duty and away from their personal vehicles. No injuries resulted. Appendix 3 consists of a photograph showing the resulting damage and a copy of the official report of the incident.

On November 13, 1968, a Berkeley, California police officer stopped a vehicle for a traffic violation and was wounded by gunshots fired at him from within the vehicle. The perpetrators, who were later taken into custody, were members of the Black Panther Party. Appendix 4 consists of a copy of the official report of the incident.

On November 19, 1968, three San Francisco, California police officers were wounded by gunfire while in the official act of attempting to arrest six armed robbery perpetrators. The investigation of the incident established that all six perpetrators were members of the Black Panther Party. Appendix 5 consists of a copy of the official report of the incident.

On January 1, 1970, a San Francisco police officer was shot and killed by one of two burglary perpetrators whom the officer was attempting to arrest. Appendix 6 consists of a copy of the official report of the incident.

On February 13, 1970, a bomb explosion occurred in the Berkeley, California Police Department parking lot causing extensive damage to nine police vehicles, window damage to surrounding vehicles, and damage to six vehicles which belonged to Berkeley police officers who were then on duty. Appendix 7 contains photographs and a copy of the official report of the incident.

On February 16, 1970, an explosive device detonated on a window ledge of a San Francisco Police Substation. One San Francisco policeman was killed by shrapnel from the explosion and eight policemen were seriously injured. There was extensive damage to the building itself and two police vehicles. Appendix 8 consists of photographs and a copy of the official report of the incident.

On April 17, 1970, three Oakland police officers were wounded by gunfire which resulted from a planned, vicious ambush by at least three persons who were lying in wait alongside the roadway. A fourth officer was wounded while in the act of pursuing the vehicle in which the perpetrators fled from the scene. During the pursuit of the perpetrators' vehicle, the perpetrators not only fired at the officers with a variety of weapons but also threw hand grenades at them from their vehicle. Appendix 9 consists of photographs showing the damage to the vehicle, the weapons which were recovered from the perpetrators' vehicle (consisting of machine guns among others), a hand grenade and a copy of the official report of the incident.

On June 4, 1970, two Oakland police officers were conducting a routine security survey of a business establishment during which time their police vehicle, which was parked nearby, was destroyed by a bomb which had been placed in it after the officers had departed the vehicle. Appendix 10 consists of photographs showing damage to the vehicle and a copy of the official report of the incident.

On June 5, 1970, a "live pipe bomb was discovered underneath a police vehicle which was parked in the Berkeley Police Department parking lot. The bomb was removed safely. Appendix 11 consists of a copy of the official report of the incident.

On June 17, 1970, two separate bombs exploded in a drive-in restaurant in Emeryville, California, causing major damage to the building. After the explosions, investigating officers discovered two additional bombs which

had not detonated. The explosions occurred at the approximate time when Emeryville police officers were known to meet at the restaurant for a coffee break. Appendix 12 consists of a copy of the official report of the incident.

On June 19, 1970, a San Francisco policeman, who was sitting in his parked patrol car writing a traffic citation for an unattended illegally parked vehicle, was fatally wounded by gunshots. Neither the owner of the parked vehicle or any other person was nearby before the officer was shot, nor had there been any interaction between the officer and any other person preceding the shooting. Appendix 13 consists of a copy of the official report of the incident.

On July 13, 1970, a bomb exploded in the lobby of the Oakland Police Administration Building causing extensive damage. This was the second bombing of the building within a period of two years. Appendix 14 consists of photographs showing the damage and a copy of the officials report of the incident.

On July 22, 1970, an explosive device detonated near the California Highway Patrol office in Oakland. It had apparently been thrown from a nearby overhead freeway. Appendix 15 consists of a copy of the official report of the incident.

On October 2, 1970, a Berkeley Police Department patrol car was destroyed by fire after a small explosive device detonated under the gas tank while the officer was driving the vehicle. Appendix 16 consists of a copy of the official report of the incident.

On October 6, 1970, a San Jose, California police officer was murdered as he sat in his patrol car while writing a traffic citation. The perpetrator was not involved in the traffic violation incident and was unknown to the person who had committed the traffic violation.

On October 20, 1970, a Berkeley police officer was discussing a minor traffic violation with a motorcyclist. A person who was not involved in the incident in any way walked up to the officer and the motorcyclist, engaged the officer in a short conversation and then, without warning or any reason whatever, produced a small handgun and shot the officer in the face, killing him. Appendix 17 consists of a copy of the official report of the incident.

I believe that the review of the foregoing incidents clearly demonstrates that police officers have been assaulted, injured or killed solely because of their official character.

Now, Mr. Chairman, I turn to the bills themselves. As I understand them, the proposals would enable authorities to punish conduct that, at least in many jurisdictions, does not now constitute criminal behavior. It would, in addition, enable the F.B.I. to give greater assistance to local law enforcement.

As for the specific language of the bills, I have prepared a number of detailed and technical remarks, which because of my concern for the Committee's time and the nature of those remarks, will be submitted only in my written testimony. I will, however, summarize them briefly.

1. S. 4359 addresses itself to crimes against police officers, whereas S. 4348 includes firemen and judicial officers, as well. I would support the broader coverage of S. 4348.

2. S. 4359 addresses itself to the injuring or killing of a police officer, whereas S. 4348 adds to those, assaults upon a police officer. Again, I would urge the broader coverage of S. 4348.

3. Subparagraphs (a) (1) and (2) of both bills (S. 4348 and 4359) I regard as constitutionally suspect on vagueness grounds. They are unnecessarily confusing and may, in addition, seek to punish conduct at too early a stage in the development of the criminal design. I have proposed alternative language in my written testimony.

4. Subparagraph (a) (3) of S. 4359 may also be of dubious constitutional validity. The primary question arises under the First Amendment. The paragraph, also, may seek to punish conduct at too early a stage in the development of the criminal design, making it criminal to travel in interstate commerce with intent to teach methods of manufacture. Can that conduct, so far removed from the consummation of the offense the bill is designed to prohibit, constitutionally be made a crime?

5. S. 4325 appears to be wholly unnecessary in light of the presently effective provisions of 18 U.S.C.A. § 1073 (1969), making it a five-year felony to travel in interstate commerce to avoid prosecution for any felony.

ADDENDUM: WRITTEN TESTIMONY

1. S. 4359 addresses itself to crimes against police officers, whereas S. 4348 includes firemen and judicial officers, as well. I would support the broader coverage of S. 4348.

2. S. 4359 addresses itself to the injuring or killing of a police officer, whereas S. 4348 adds to those, assaults upon a police officer. Again, I would urge the broader coverage of S. 4348.

3. If I may and with due respect to the draftsmen, I would suggest that Subparagraphs (a) (1) and (2) of both bills (S. 4348 and S. 4359) are somewhat vague—at least, in my reading—and may, in addition, seek to punish conduct at too early a stage in the development of the criminal design.

More specifically, Subparagraph (1) makes it criminal, in effect, to travel in interstate commerce with intent to kill a police officer. Is actual death of or injury to the officer an element of the offense? If not, what evidence must be adduced to establish the requisite "intent"? May I refer you, for example, to 18 U.S.C.A. § 2101(a) (1) (1969). That section makes it a felony to travel in or use interstate commerce with intent to incite riot "and who either, during the course of any such travel or use of thereafter performs or attempts to perform any other overt act" for the purpose of inciting riot. Should not the proposed bills, because of their marked similarity to Section 2101(a) (1), include an overt act element?

The language of Subparagraph (a) is a curious mixture of complicity and solicitation terminology. The words "aid" and "abet," used at common law and in 18 U.S.C.A. § 2 (1969), have traditionally been employed in defining complicity. Complicity, of course, has always been a principle of liability and not, in itself, a substantive crime. Putting it another way, a person, if he was an accomplice, was considered a "principal" to the crime, and was therefore liable for the consummated offense. Complicity was the theory for holding him on the main offense; complicity was not a crime itself. By the same token, other language in Subparagraph (2) ("encourage" in S. 4348; "encourage," "incite" and "promote" in S. 4359) resembles typical solicitation language. Solicitation, traditionally, has been recognized—like attempt and conspiracy—as a true inchoate crime. Thus, the American Law Institute's Model Penal Code defines solicitation as follows:

"A person is guilty of solicitation to commit a crime if with the purpose of promoting or facilitating its commission he commands, encourages or requests another person to engage in specific conduct which would constitute such crime or an attempt to commit such crime or which would establish his complicity in its commission or attempted commission. MODEL PENAL CODE § 5.02 (Proposed Official Draft 1962)."

Finally, neither bill includes conspiracy to kill or injure a police officer. As I see it, this omission is a deficiency that ought to be corrected.

Would it not be cleaner, perhaps, to rely on established notions of complicity, conspiracy, attempt and solicitation, rather than to combine and confuse them as both bills seem to do. I would, to this end, suggest language such as the following as an alternative to proposed Subparagraphs (a) (1) and (2):

"(a) Whoever travels in interstate commerce or uses any facility of interstate commerce, including, but not limited to, the mail, telegraph, telephone, radio, or television, in furtherance of:

"(1) a conspiracy, attempt, or solicitation to assault, injure or kill any law enforcement officer, fireman, or judicial officer because of his official position (shall be punished as deemed appropriate for such inchoate crime);

"(2) a killing, injuring or assault upon any law enforcement officer, fireman, or judicial officer because of his official position shall be punished as deemed appropriate for the consummated crime)."

I would propose the following as an addition to Subsection (c):

"(7) A person commits 'solicitation' to commit a crime if with the purpose of promoting or facilitating its commission he commands, encourages, or requests another person to engage in specific conduct which would constitute such crime or an attempt to commit such crime or which would establish his complicity in its commission or attempted commission."

Traditional federal-law notions of complicity, see 18 U.S.C.A. §§ 2 (principals) and 3 (accessories after the fact), would then be relied upon to establish complicity.

ity in each of the above offenses. The aiding and abetting language in the present proposals could be construed as at best unnecessary and at worst requiring that the accomplice himself have utilized or traveled in interstate commerce. Under my suggested language, on the contrary, an accomplice would not have to utilize interstate commerce in order to be liable for the main offense, provided, of course, that those whom he aided and abetted utilized interstate commerce.

4. My only other serious concern is with Subparagraph (a) (3) or S. 4359, which addresses itself to the teaching of methods for manufacturing firearms and the like, when the teacher has knowledge or reason to believe that "the same [presumably that refers to the ultimately manufactured weapon] will be unlawfully employed for the purpose of injuring or killing any police officer because of his official character." I am bothered enough by the definition I have just quoted. When that is coupled with the requisite jurisdictional basis—the interstate commerce travel or use—the offense becomes further attenuated as follows: the crime is to travel in interstate commerce with the intent so to teach. Can such conduct constitutionally be made a crime? Again, would it not be more edifying to state, rather, that it is an offense to travel in or use interstate commerce in the furtherance of "the teaching . . ." ? Even at that, however, First Amendment questions, I believe, are necessarily presented.

The federal experience under the Smith Act has taught us that legislative attempts to proscribe the advocacy or teaching of illegal acts must be coupled with the requirement that the advocate or teacher have harbored the intention to cause the acts advocated. *Dennis v. United States*, 341 U.S. 494, 499 (1951). It is unconstitutional, moreover, to convict a person for belonging to an organization that advocates violence, unless that person has more than the mere knowledge that his organization advocates violence. *Purpose or intent*—not mere knowledge—is the requirement. *Scales v. United States*, 367 U.S. 203 (1961). Finally, Congress may not prohibit the mere discussion of ideas, but must, in order to satisfy the First Amendment, proscribe only the use of "language reasonably and ordinarily calculated to incite persons to . . . action immediately or in the future." *Noto v. United States*, 367 U.S. 290, 297 (1961).

These principles lead me, again, to suggest a possible alternative to Subparagraph (a) (3) of S. 4359:

"Whoever, with intent to cause the death or injury of any police officer, fireman or judicial officer, uses any facility of interstate commerce, including, but not limited to, the mail, telegraph, telephone, radio, or television, to advocate the unlawful killing, injuring or assault of a police officer, fireman or judicial officer (shall be punished as deemed appropriate).

This language, I submit, would cover the instance where literature is disseminated instructing in the manufacture of deadly weapons, where, in addition, evidence of the disseminator's purpose could be adduced. Such language, moreover, would eliminate the necessity of proposed SEC. 2(a) (2) of S. 4359. As presently couched, in any event, that section is of questionable constitutional validity as ostensibly lacking a basis for federal legislative jurisdiction.

5. My only comment about S. 4325, which makes it a "five-year" felony to travel in interstate commerce to avoid "prosecution . . . for willfully killing a police officer . . ." is that it appears to be wholly unnecessary. 18 U.S.C.A. § 1073 (1969), presently on the books, makes it a five-year felony to travel in interstate commerce to avoid "prosecution . . . for a crime . . . which is a felony under the laws of the place from which the fugitive flees . . ." Needless to say, killing a police officer is a felony in every jurisdiction. The introduction of S. 4325 is, therefore, seemingly a futile maneuver. Its presumption section, (b), however, is new and could be adopted as an amendment to Section 1073, just quoted.

Mr. GAIN. Thank you. As to the bills, S. 4359 addresses itself, as I understand it, to crimes against police officers, wherein S. 4348 includes firemen and judicial officers as well. I would support the broader coverage of S. 4348.

S. 4359 addresses itself to the injuring or killing of a police officer, where as S. 4348 adds to those assaults upon an officer. Again, I would support the broader coverage of S. 4348.

Subparagraphs A-1 and -2 of both bills—that is, S. 4348 and S. 4359—may be constitutionally suspect on vagueness of grounds, with all due respect to the persons who put the bills together. They appear

to be unnecessarily confusing and may in addition seek to punish conduct in too early a stage of development of the criminal design. We propose alternative language in the written document which we are submitting.

With regard to subparagraph a(3) of S. 4359, there may also be here dubious constitutional validity, in our judgment. The primary question arises under the first amendment. The paragraph also may seek to punish conduct at too early a stage in the development of criminal design. Making it a criminal act to travel within interstate commerce with intent to teach methods of manufacture only—the question is can that conduct so far removed from the consumption of the offense, that the bill is designed to prohibit constitutionally be made a crime?

In the last observation, S. 4325 appears, again with due respect to the framers, to be unnecessary in light of the presently effective provisions of 18 U.S.C., section 1037, making it a 5-year felony to travel in interstate commerce to make any prosecution of a felony.

I would in regard to legislation support, as I stated here, S. 4348 very strongly. I feel the legislation is needed for the purposes stated: To give us assistance, to take care of the acts of traveling in interstate commerce and publishing that would result in assaults or injuries or deaths to police officers.

That concludes my remarks.

Senator THURMOND. Chief Gain, I want to thank you for appearing here. I want to ask you this question: As I can see, you approve in general of this legislation?

Mr. GAIN. Yes, sir; as I stated quite emphatically; yes.

Senator THURMOND. Do you have any other suggestions for legislation along the lines that have been indicated which is now before this committee?

Mr. GAIN. With regard to the legislation per se?

Senator THURMOND. Yes. I am speaking now in general and I am speaking more of a national picture than just the local picture.

In other words, if you had the power to prevent assaults and assassination upon police, to stop this bombing and stop the rioting and stop the demonstrations where all these acts are committed and so forth, what would you do? What recommendations do you have in general on the entire picture?

Mr. GAIN. Of course, if I had the power, I would stop it, Mr. Chairman.

Now, as far as legislation, I think legislation of this nature is needed and will be helpful. I am gravely concerned, though, that we look beyond the legislation per se. I am concerned that, to be very frank, we not commit semantic aggression in assigning now the word "revolution" to everything that is taking place. I do not think that there is a revolution in being, nor is there one in being on the installment plan, and I do not use those words in affront to the preceding speaker. I have heard them before.

I feel what we are involved with now is a very serious, tragic number of rebellions in various parts of the country. I feel it has elements of a conspiracy, but I do not feel at this time that there is the leadership and the organization and the capability of any group of people to bring about the overthrow of this Government or to attack the

larger society within the United States, which would be required to have a revolution. I submit that there are rebellions going on, tragically. They must be stopped by lawful means. I am impressed that what is occurring is that people who have hostile feelings for whatever reason against the Government, or society at large, are expressing them in murderous ways as regards attacks upon policemen and bombing buildings. Therefore, whatever legislation we can bring about to ameliorate or eliminate to stop this thing, we should.

I would submit, though, that what we need is a thorough analysis of these incidents that have taken place and to try to get behind and find out why all the people who are involved are doing all the things they are. I do not think that it is solely a matter of Communists or the Communist Party doing all of these things. I do not minimize the extent to which Communists would want to do them or lay claim to them. There is more behind it than that.

I would submit that we should analyze, I would submit that we should take into consideration the extent to which, perhaps, people are doing things because of the racial problem and strife that exists in the United States. I do not here, by saying these words, condone their actions or anything of that nature.

We should analyze, if we could, and determine the extent to which national policies as regards the war in Vietnam is a factor. I say factor, not a contributing factor. But if we have a situation where people who have intense feelings about national policy, about the social discrimination that has attended black people for a long time—if we can determine this type of thing, perhaps we can do things, then, not necessarily in a legislative sense, that will bring a lessening or cessation to the assaulting and killing of policemen.

Senator THURMOND. Do you not feel that this lawless element, as Chief Davis testified, where he picked up Communist literature and Marxist literature, do you not feel that these groups, in trying to kill policemen and intimidate law enforcement officers and bring about suppression and repression, will always find some topic upon which to hinge their fight, whether it is the war in Vietnam or whether it is social legislation or something else? If they are against the structure of the American Government, if they want to bring about a revolution—and Chief Davis called it a revolution by installment—if that is really their purpose and that is their goal, will they not use any pretext to proceed to accomplish their goal?

Mr. GAIN. I should think they would and as I stated, I would not minimize the extent to which Communists would like to bring about the downfall of this country. What I tried to suggest was that we should look beyond that. We should do all the analyzing we possibly can to try to determine why the people that are doing this are doing it and not assign, I would suggest, as the sole causative factor, communism. I think if we do that, as tragic as the problem is that attends communism and as much as it must be addressed, if we do that, I think we may be doing our country a disservice. I only suggest that what we do is analyze all the incidents that have taken place, to see what the design factors are, to try to find out what the people who have been committing these acts feel, if we can. Not to pacify, but rather to get an understanding upon which we can base programs of action. Legislation per se, I would submit, although needed as I emphatically stated here,

will not solve the total problem that confronts this country. If people do in fact have very hostile feelings as regards Government or the larger society because of the racial strife in this country, if we identify that, perhaps we could address it in some way.

I am not the expert and would not presume to say what way. But if it is a factor, if we can identify it, we should and do something about it and not fall back upon one thing—not fall back and say we have a chaotic condition caused by communism alone. I only suggest problem sensitivity, identifying the problems, some analysis, see what some alternatives are so we can have a basis for viable programs.

Senator THURMOND. Do you not think that these people who are causing this trouble or the ones who call police "pigs," they are the ones who assassinate and assault police, they are the ones who kill innocent firemen who go to put out a fire in a building?

Mr. GAIN. Mr. Chairman, it does not necessarily follow that all who call a policeman "pig"—I do not condone that type of language or conduct either—would follow through with unlawful assault and behavior.

Senator THURMOND. The point I am getting at, I just want to make this clear to you—are you saying that what is going on is a result because these people are dissatisfied about the war in Vietnam or dissatisfied by social problems, or they are doing it, as Chief Davis said, because they are fundamentally against the structure of American Government and its revolution on the installment plan?

Mr. GAIN. I only try to suggest, Mr. Chairman, that some may be doing these acts for reasons other than a total overthrow of the Government, or because of communistic motivation, inspiration, guidance, control, whatever it may be.

Senator THURMOND. Are you speaking about assaulting policemen, now, assassinating policemen?

Mr. GAIN. I am talking about those things to which I addressed myself, be it assault upon policemen or bombings.

Senator THURMOND. Are they going to assault policemen, for instance, because they do not like the war going on in Vietnam?

Mr. GAIN. Who knows?

Senator THURMOND. Are they going to bomb buildings because they do not like the war going on in Vietnam?

Mr. GAIN. Who knows? All I am suggesting is that we analyze. I am suggesting that we do not fall upon one reason and assign one reason only. If we do, I would suggest that we may not be able to get down to the underlying problems that give rise to all these actions.

If there is only one cause, then, fine. If we can identify it, then we will have a pretty simple problem on our hands as far as where to go. I would suggest to you, and I am only suggesting this, there may be more than one underlying cause. So I suggest analysis to find out if that is the case or if there are more. So, if we cannot identify more than one, then we can have a program for each one that may confront us.

I in no way in my testimony or my thought and philosophy condone the actions taking place. That, of course, would be asinine. I state emphatically that we need the legislation that I am here speaking to and have spoken to. We need all that.

But I only suggest again that if we assign revolution as being the thing that is taking place in our country, I think we would be wrong because I do not think we now have a revolution before us. I would assign, rather, the word "rebellion." No organization has the power, thank God, to overthrow this Government nor to attack the larger society. If we umbrella this thing and say it is a revolution with a common design with all people who have the same intent, then I think we do the country a disservice.

Mr. SOURWINE. What you are against is concerted nationwide attacks upon the police, whether it is revolution or rebellion or whatever?

Mr. GAIN. I am against all of that, as I stated. I am against every single bit of it. It is a tragic thing when people assault policemen. It is tragic when they call them names like "pig." That is one of the milder things they are calling them today. It has to be stopped. The only thing I am saying is that notwithstanding the tragedy and the fact that it has to be stopped, we have to go beyond and do a lot of analyzing. I am hoping that the committee, with all the material it has gathered, will analyze.

You asked where we can go beyond this legislation. That is what I am addressing myself to. We can go beyond it by way of analysis to determine if there are social problems we can address beyond legislation alone.

Mr. SOURWINE. But you are advocating this analysis and further study, not as a substitute for action against the attacks on police but as a method of helping to stop the attacks on police?

Mr. GAIN. Yes, sir; the chairman asked me, as I remembered the question, were there any thoughts I had beyond the legislation.

Mr. SOURWINE. That is right.

Mr. GAIN. Beyond. So what I have spoken to here is beyond. This legislation I have spoken to I have emphatically supported. It is needed. I was asked to go beyond it and I went beyond it.

Senator THURMOND. I would like to ask you this question: Chief Davis of Los Angeles and the other witnesses here who expressed themselves on the subject have given as their opinion that since the tactics are the same in assaulting police in different cities, of assassinating police in different cities, and bombing buildings in different cities, they are of the opinion that there is a central organization that is training people and sending them out to commit these acts. They are convinced that there is a communication system among these groups in concert. What is your opinion?

Mr. GAIN. I do not know. The fact that the tactics are the same as regards bombings and assaults, the fact that they are the same does not necessarily follow that there would be only one organization. I have a feeling that there is more than one organization involved. They may well have communications with each other. But I think there is more than one organization, not just one central plan. Maybe one central plan probably is as regards the Communist activity, for example.

But I think there is more than one organization and I hope there is not a coalescence, assuming there is more than one. We would be worse off than we are now.

Mr. SOURWINE. I have no other questions. I think, perhaps, it might do no harm to point out one factor coincidence, as the case may be, and ask the chief if he has any comment on it.

Last night, within 3 hours, Santa Barbara, San Jose, and Seattle all had bombings. The bombings appear to coincide with certain warnings that had been given earlier. Is this a situation you would care to comment on?

Mr. GAIN. The only comment I can make, of course, is with regard to the tragedy of it and that perhaps what this came from was the statement made just recently, as I recall, by a young lady who was on television forecasting that certain things were going to occur. Things did occur. Whether there was a causal relationship or not, I do not know. I am impressed that the way things are going now, we are going to see more and more of this type of activity, bombing and, tragically enough, probably more assaults upon policemen.

That is why I suggested with all earnestness and sincerity that we do analyze and find out as much as we possibly can what is behind it all. If we focus upon only one causative factor, it is my policemen and it is the policemen within the many cities of this country who may suffer because of what I would say would be our blindness in focusing upon only one causative factor. That is why I suggest analysis. Legislation, per se, although needed and although very helpful, is not going to cure the problem. We cannot look to legislation alone. We cannot look alone to the silent majority becoming more knowledgeable and getting up in arms. This is not going to do it. Expressions in themselves will not do it, as much as I wish they would. If we could say stop it, this is not the American thing to do—we are going to have to analyze and try to see what is going on the best we can and then take specific programs to address these problems.

Senator THURMOND. Is there anything else you would like to say now, Chief?

Mr. GAIN. Thank you for the opportunity of being here.

Senator THURMOND. We thank you for coming and appearing as a witness. We appreciate your appearance.

Mr. GAIN. Thank you.

Senator THURMOND. Our next witness is John Harrington, the Fraternal Order of Police.

Have a seat, Mr. Harrington. You may present those who are with you.

STATEMENT OF JOHN HARRINGTON, PRESIDENT, FRATERNAL ORDER OF POLICE; ACCOMPANIED BY SERGEANT STONEBREAKER, MUNCIE, IND.

Mr. HARRINGTON. This is Sergeant Stonebreaker, Muncie, Ind.

Senator THURMOND. You may proceed with your testimony.

Mr. HARRINGTON. Thank you.

My name is John J. Harrington and I am president of the Fraternal Order of Police, the oldest and largest of national police organizations. We have approximately 120,000 members—all active police officers—in over 40 States and our individual lodges are not far from 1,000.

I am indeed glad that this committee is considering legislation which would make organized attacks upon police and the conspiracies which have resulted in such attacks felonies under Federal law. Senator Eastland's bill includes those who travel or communicate in interstate commerce for the purpose of attacking or injuring policemen. It would also cover explosives and incendiary devices to be used against police officers and the transportation of firearms or other weapons in interstate commerce to be employed against police officers. We hope this bill will be enacted.

The bill by Senators Schweiker and Williams, which are before your committee, would include firemen. We do not speak for them but it is evident that they also are being systematically attacked. In many cities, there are false alarms and the firemen arrive only to be the victims of snipers and missile throwers and this is the case also in many instances where the fire alarms are genuine. We give our approval also to the Schweiker and Williams bills, but we think the penalties should be more severe. After all, conspiracy to murder, which is what the Panthers and other fanatic groups are engaged in, is, as we see it, a most serious crime.

Most of you are familiar with the results of the continued attacks upon policemen. Within 3 days recently, in my own city of Philadelphia, one policeman was killed and six others wounded in unprovoked attacks. In the guardhouse of a West Philadelphia park, a black gunman walked into the place and shot Sgt. Frank VonColln five times as the officer sat at his desk unarmed. I served 28 years on the Philadelphia force and knew Frank VonColln, a fine man and dedicated public servant, well. I knew also the other policemen who were wounded. After the Philadelphia tragedy, a police officer in Cleveland was killed. Then a policeman was slain without warning in Atlantic City, N.J., on October 1.

During 1970, 18 police officers have been killed in unprovoked attacks, according to the FBI, which is double the number killed in this manner in 1969. At least 58 police officers have died in the line of duty this year and there were 86 such deaths, in 1969, an all-time high.

In our judgment, the Black Panthers and some other militant groups are engaged in a general conspiracy to overthrow the Government and are engaging in guerrilla warfare as a part of this conspiracy. The police and firemen are slain and assaulted since they represent, in the last analysis, internal stability and the creation of turmoil and chaos is a primary aim of the revolutionists. Many of the militants, but not all, are black but it is significant that black officers and firemen also are their targets and that the Panthers are urging that all the pigs--policemen--be killed.

J. Edgar Hoover, head of the FBI, stated of the Panthers during testimony for an appropriation bill:

An organization which stockpiles illegal weapons, trains in guerrilla warfare and seeks confrontation with enforcement officers for the express purpose of killing them is certainly in violation of the law.

We wrote the attorney general about Mr. Hoover's statement and received a reply from an official that the Department was investigating.

Yet, after two Panthers were killed by police in December 1969, during a raid on a Panther establishment in Chicago, a loud outcry

arose. Many prominent persons apparently were taken in by a claim of Panther spokesmen that the police were engaged in a campaign of genocide against them. Amazingly enough, Leonard Bernstein, a famous musical conductor, held a party to raise funds for the Panthers. Arthur Goldberg, now a candidate for Governor of New York, said he would help form a committee to investigate the Chicago incident, in terms which indicated sympathy for the claims of the Panther spokesmen. Some Negro leaders, generally moderate in their attitude, took Panther claims seriously. As it turned out the BPP tally of Negro militants killed by police was greatly inflated. I can tell you here and now that many more policemen have been killed by Panthers than Panthers have been killed by officers. Today, in almost every large city the threat of assassination hangs every day over the men charged with enforcement of the law.

Also, the Department of Justice immediately set up a special Federal grand jury to look into the circumstances of the Chicago shootout. The officers, as I understand it, had a warrant for the invasion of the Panther establishments and did find illegal caches of arms. Nevertheless, the original report of the grand jury was highly critical of the police and another Federal grand jury is now investigating. It is likely that indictments against some of the police involved will result.

But the Department of Justice has empaneled no special grand jury to examine the circumstances under which police officers are being assassinated and wounded almost daily, even though we feel that there is a national conspiracy on the part of the Panthers against policemen. The Department has not recommended legislation to deal with the Black Panther conspiracy which, as its literature and speeches clearly show, preaches murder of police officers as a part of its overall plan to destroy our system. We are disappointed at the supine attitude of the Department of Justice. Many individual officers are bitter, feeling that insofar as the Department is concerned, they have no civil rights.

What are police to do when they know that Black Panthers, or other militant organizations, are illegally assembling arms and ammunition which are likely to be used against them, the law enforcement officers? I say that the police must enforce the law and that they must have regard for the civil rights of others, and also for their own civil rights and lives and safety. I say also that the news media of this country—and prominent individuals—must not be so quickly taken by the propaganda of murderous revolutionists. With some notable exceptions, I think many of our larger papers and the TV chains, generally, have given the police officers an unfair deal.

I except, of course, J. Edgar Hoover, a Department official whom the average policeman regards as the greatest law-enforcement officer that ever lived. In this connection, let me quote some of the statements which Mr. Hoover has made about the Black Panthers:

The Black Panther Party, a black extremist organization, consisting for the most part of hoodlum type of revolutionaries, continues to be active and dangerous from an internal security standpoint. Originating in 1966, it expanded its activities all across the country forming over 40 chapters. Following a purge of its members, it deliberately reduced its chapters to approximately 30 but now (March 1970) once again is steadily growing.

Its estimated membership consists of 800 to 900 hard-core guerrilla type members with many thousands of supporters in the major urban areas of the Nation.

A free society is in trouble when blatant propaganda so overshadows truth that the role of law is jeopardized. Currently, law enforcement agencies throughout the country are wrongfully accused of harassment by many well intentioned but uninformed voices echoing outright lies generated by the lawless Black Panther Party.

Mr. Hoover also points out that Panther publications abound with cartoons urging physical attacks on police, referred to by the radicals as "pigs." The Panthers pride themselves upon feeding children and with helping educate them but the educational and feeding processes involved cartoons, accompanied by chanting: "There is a pig upon the hill—if you don't kill him the Panthers will." The official BPP publication, the Black Panther is on record to the effect, "The only good pig is a dead pig."

As I have already indicated, police officers and many other ordinary citizens are astounded and bewildered at the attention and favorable publicity given the Black Panthers and other militants by some powerful newspapers and some of the big TV chains. Time after time, I have listened to Panther spokesmen being interviewed by TV commentators and, in almost every instance, their ranting and denunciation of our society and the police are treated with an attitude which in some cases amounts to fawning. I most certainly am not a Ku Klux Klansman, being an Irish Catholic, and I am openly opposed to what the Klan stands for. Yet, it is curious that many of the liberal newspaper and some of the TV chains, so courageous in assailing the Klan, are so cowardly when it comes to the Black Panthers and other militant revolutionary groups.

Not all the militants are blacks. The Weathermen factions of the SDS and various outfits composed primarily of whites are violent, revolutionary, and destructive. Policemen are anathema to them. Few of these groups have any program, save that of tearing down society.

A most extraordinary incident took place last spring when Yale students struck on the grounds that Black Panthers being tried in New Haven could not be given justice by the jury. Kingman Brewster, the president of Yale, went along with the views of the students and also said he doubted that the Panthers would be given just treatment. To my way of thinking, Kingman Brewster is not fit to be president of what was once one of our great universities. Incidentally, the Panther trials grew out of charges that members of the BPP murdered a Black Panther whom they regarded as an informer. It is my personal opinion, and I am by no means alone, that the weakness of many college heads and administrators is responsible for much of the trouble which beset schools and colleges in 1969 and 1970. On several occasions police were called in after the college heads could no longer handle the situation. Then, afterward, students turned against the officers who had nothing to do with the trouble in the first place and were only called upon after things got out of hand.

Most policemen are underpaid. Several authorities, including Mr. Hoover, say that this constitutes a national disgrace. The Fraternal Order of Police is on record to the effect that no full time police officer should be paid not less than \$10,000 annually. A bill to this effect has been introduced by Senator Hartke of Indiana.

If anyone thinks that this pay scale is out of hand, let me remind them that the Bureau of Labor Statistics reports that a moderate standard for a family of four is slightly more than \$10,000. Let me

also point out that many union employees get more than \$10,000 annually. We are not criticizing the pay scale of union employees but, if ever the country needed an adequate, well-trained and fully staffed police force, the time is now.

I know that constitutional questions will be raised against the Hartke bill. I can only say that I think it is a major responsibility of the Federal Government to see to it that active police officers get an adequate wage. Fully staffed, well-paid police forces are absolutely necessary if we are to get crime in hand.

I am not intimately familiar with the workings of the organization set up to administer the so-called Safe Streets Act which permits, indirectly, grants to be made for the purpose of raising police salaries. But from what I have seen, the big cities which are the crime ridden centers get far too little of the money appropriated.

In this connection, I am familiar to some extent with the attempts being made to restore the so-called ghetto and deteriorating downtown areas in many of our largest cities. There are talks of extensive restoration and grandiose projects. These will avail nothing unless order can be restored in the inner cities. With robberies and burglaries taking place around the clock, few men, whether black or white, are going to risk their money and their lives in areas where burglaries, armed robberies, mugging and, by the way, looting, are a way of life. I take it that all of the members of this committee are familiar with recent disorders on 14th Street in Washington, where there were clashes between the police and demonstrators and also a good deal of looting.

This attitude which has grown up toward looting puzzles me. At one time in our history, looters were dealt with very harshly indeed, shooting being one of the ways to prevent this act. Nowadays, the looters know that they have little to fear insofar as bodily injury is concerned. So long as this situation continues, looting will almost inevitably accompany any major disorder in our larger cities. The question will be raised: Would you advocate shooting the looters? If there is no other way to stop this practice, my answer would be "Yes"!

I believe that a country where property is not protected, where the streets are unsafe and the ordinary citizen is in ever present danger from the robber or mugger, is a country in a very bad way. Already, we see vast changes coming about because the cities are so crime ridden. The law-abiding citizens flee in droves and the unfortunates left behind are more and more subject to extortion, assault, robbery, and rape. With all regard to the seriousness of the war in Vietnam, crime is our foremost problem.

Commissioner Rizzo of the Philadelphia police has given the country an example of how the police should deal with the criminal, forcefully and fearlessly. While crime in Philadelphia is high, it is less than in any other major city. Commissioner Rizzo, a longtime friend and associate, tried to enforce the law. He meets force with greater force. He has steadily risen in favor with all the city's decent elements, including the Negroes. The FOP is on record as favoring a Rizzo like program in every city in this country.

This is only the beginning. The technicalities which make a criminal trial a matter of months, or even years, must be eliminated. Over

the years, in the name of protecting constitutional rights, the courts have handed down a steady series of decisions which have shielded and encouraged the criminal. I am not a lawyer and am not an authority on the Constitution. But, if the Constitution does not protect the rights of its law-abiding and decent citizens, what good is it?

Our whole system of criminal law must be overhauled. The accused must be given a speedy trial. Many policemen were encouraged by the passage of the District of Columbia crime bill which allowed preventive detention and the so-called no-knock provision, intended primarily, as I understand it, to allow quick entry to prevent the disposition of drugs. I could not understand the opposition to the preventive detention, in particular. But make no mistake about it, we still are losing the crime war and a lot more steps must be taken.

I am not pessimistic about the relationship between the police and the public. I believe that, more and more, law-abiding citizens, black, white or brown, want police protection. They are beginning to realize that their interests lie on the side of the law and that the police are agents of the law. But many are held back by fear and by racist propaganda. Let us keep in mind there are many Negro policemen, already. We have a good many in the ranks of the FOP and want more. And, in the future, there will be even greater numbers of black policemen and properly paid, they will do a good job.

One of the homilies that we hear often from liberal speakers and editorials in liberal newspapers is that the way to end crime is to do away with the conditions which cause crime: poverty, ignorance, and so forth. The average policeman is beginning to gag at such lofty lectures. I am against poverty, ignorance, and unemployment but how can we explain the fact that crime has gone up and up while material conditions have grown better and better? No crime can be controlled only through adequate police forces and a judicial system which deals with criminal cases speedily and objectively, keeping the rights and interests of society in mind as well as the rights and interests of the accused.

I have already endorsed the Eastland, Schweiker, and Williams bills. It is heartening to know they have been introduced, along with quite a number of similar bills in the House. But, if I may, I would like to make some suggestions. I would like to see the bills before you amended to make it a conspiracy to slay police officers, firemen, or any other group or individual, if the conspiracy is engaged in by militant groups, such as the Black Panthers.

It is clear, as I see it, that the slaying of policemen by the Black Panthers, for example, is the result of an interstate conspiracy, since the overall organization calls day in and day out for the murder of the "pigs."

Furthermore, the Fraternal Order of Police advocates that groups, such as the Black Panthers, be outlawed and that memberships in such outfits be a felony under Federal law. I don't know how this can be accomplished, for I am not a lawyer. I leave the problem, and it is a pressing one, to the Congress.

I also realize that the Supreme Court has for years been extremely solicitous of the rights of dissident groups in particular the Communists. But the Panthers go far beyond the activities of the Communist Party. They, and others like them, are engaged in a guerrilla

war against the United States, a war which they pursue actively day in and day out. They kill policemen because, as they see it, this is one of the most effective means of achieving their overall objective, the destruction of the system. They advocate armed revolution in almost every public statement. They have openly called for the assassination of the President and they, as I have already repeated, have killed and wounded many policemen and will kill and wound many more. They systematically practice extortion on citizens and businessmen in their area to finance their war on the United States. It seems to me that there should be some legal action which can be taken to outlaw them. If we are to allow this internal guerrilla warfare to go on and on, we must look forward to chaos.

As for policemen of the country, my advice to them is to organize to protect their interests. We want as many active police officers as we can get in the FOP and we plan to be more and more active at the national and local level. We are a tax-exempt organization and do not intend to do anything to jeopardize that status. We do feel, however, that every police officer owes it to himself, to his family, and to his country to protect a system in which he believes and liberties that he cherishes.

Senator THURMOND. Mr. Sourwine, do you have any questions?

Mr. SOURWINE. I have no questions.

Senator THURMOND. Mr. Harrington, I would like to ask you this question I propounded to the previous witness. It has been testified here that the tactics used in assaulting and assassinating police, in bombings and these other lawless acts that have been committed over the country, have been of a similar nature and it is felt that there is coordination and cooperation in the commission of these crimes. What is your opinion?

Mr. HARRINGTON. I think it is organized. If you read their own publications, they will tell you that they train for these things. Here is the Black Panther paper, October 3. They point out here that they have just put a fellow out of training. The same paper, on October 3, 1970, page 5, they give you the whole story and they brag about how they just shot two Cleveland policemen. They give their names, their addresses, tell that exactly at 2 a.m., Fulton and Trace forced a gold Buick over the curb at East 106 Street and St. Clair Avenue. Fulton ran over to the driver's side, was greeted by a barrage of bullets. He was hit in the mouth, chest, and groin. He is now in the intensive care of some hospital. Trace jumped out with his gun in his hand and ran up to the passenger side, where he was greeted by a second barrage of bullets. He was hit in the leg, arm, and foot.

After a struggle with this "pig," his gun was taken away and fired into the "pig." Bang, bang; dead pig.

So they brag about two policemen. This policeman was just buried in Cleveland, 2 days ago.

Also, in publications, they tell you about the correct handling of a revolution. It is by Huey Newton, the minister of defense. So their minister of defense says that they are in revolution with this country.

He tells you what you have to do. It is in the Black Panther, volume 2 of May 4, 1968, page 6. He tells you that the way to handle this thing is for three or four people to kill a police officer and when the public

sees that this can be accomplished, others will join them and their organization will become stronger.

So they tell us they are in revolution with us and they are training, they tell us. They say they are going to kill policemen and all these things they are doing, I believe them.

Senator THURMOND. As I understand, you endorse the legislation before Congress, or at least endorse legislation to accomplish the goals for which they are designed?

Mr. HARRINGTON. Yes, sir. I think it should be made also a conspiracy in case the conspiracy takes place within a State and does not go across the boundaries of a State. I think it should be amended if it can be—this I would leave to the wisdom of Congress, because as I say, I am not an attorney. But I think to conspire, even though it did not cross the State lines, I think should be a crime also and should be covered in this bill.

Senator THURMOND. If you have any other suggestions with regard to the legislation, we would be very pleased to have you submit a memorandum to the committee.

Mr. HARRINGTON. Yes, sir.

Senator THURMOND. On the points you just mentioned, it might be worth it to submit a memorandum on that.

If you see any pitfalls in any of the legislation now pending or if you oppose any of the legislation now pending, we would be very glad to have your statement on that and the reason for that, too. We are glad to have your opinion.

Now, do you have any suggestion of any other thing that Congress can do? Of course, we legislate at the national level and it is not our ability, not our responsibility in Congress to provide law enforcement for the Nation. That is for the States. The Governor of each State is the chief law enforcement officer in that State. But crimes involving interstate matters, going from State to State, or crime that appears to have a national nature that one State is unable to solve, then the Federal Government would consider jurisdiction and we want to do all we can to help within our jurisdiction. In view of the situation there over the Nation, possibly a new appraisal might have to be made with regard to the jurisdiction in some of these matters where it is a national problem.

For instance, if this is a national problem about assaulting or assassinating police, ordinarily, this assassinating or assaulting a policeman is a State problem. It is a violation of State law and you have State laws on it. But if that has now become a national problem and it is inspired and implemented by the group that works nationwide to cross State lines, that puts a different category on it. It makes it a national situation, which otherwise with just a simple assault, the State would take care of it. You catch the distinction I am making?

Mr. HARRINGTON. Yes, sir.

Senator THURMOND. We would be glad to have any suggestions you might have.

Can you think of anything else you would recommend to the committee?

Mr. HARRINGTON. I think one of the most important things as far as law enforcement and as far as curbing this condition would be if

Congress would look into some way, some means of closing the loopholes that have been left open by some of these decisions of the Supreme Court, that these men when they are caught for killing policemen, can openly walk the streets. That is what is taking place today.

Senator THURMOND. In other words, you feel that some of the decisions of the Supreme Court have allowed criminals to go free on technicalities?

Mr. HARRINGTON. I think the Supreme Court has been crying too much for the criminals and has not wept at all for the victims. I think today it is one of the hardest things going to make an arrest, with the number of policemen in the police departments. Huey Newton himself is a murderer of a policeman and he is walking the street because of a small technicality.

Senator THURMOND. I presume you would favor, for instance, confessions being admitted into evidence so long as they are freely and voluntarily made?

Mr. HARRINGTON. Yes, sir.

Senator THURMOND. Regardless of whether a lawyer or someone was there or not, which was the old rule before the Supreme Court changed it.

Mr. HARRINGTON. I think as long as you secure evidence, as long as it is truthful, legitimate evidence, how you secure it is not important. The important thing is to get true evidence.

Senator THURMOND. Get the truth.

Mr. HARRINGTON. I think that is the important thing.

Senator THURMOND. What the jury wants and the judge wants is the truth?

Mr. HARRINGTON. That is right.

Senator THURMOND. For instance if a defendant should be held a little too long in jail, if he makes a statement or confession while he is there, if it is the truth, should it not be admitted, and if anybody held him too long, punishment for that, but not let the defendant go free because he was held too long?

Mr. HARRINGTON. Yes, sir; as it has been stated in the Congressional Record, Judge Musmano of the Superior Court of Pennsylvania stated the *Wayne Bumper* case. He raped and shot two young people. When the police came to his home—he lived with his grandmother—they had a search and seizure warrant. When they proceeded to read the warrant, the grandmother said I know what it is, you do not have to read it, come on in. As a result, they got all the evidence, they got him. He was positively identified, his gun was identified through ballistics as the one who fired the shots and all. He was convicted in court, but then he was freed because of the small technicality that the police did not fully read the search and seizure warrant. Does this mean that he did not do the crime?

Senator THURMOND. Although he was a guilty man and the evidence proved him guilty, he went free because of a technicality.

Mr. HARRINGTON. Yes, sir; I think if the Congress could do something—

Senator THURMOND. Under the decision of the court?

Mr. HARRINGTON. Yes. I think if Congress could do something to close these loopholes and take the handcuffs off the police—I think these revolutionary things, people who are doing it are cowards, they

are hiding under this guise that they can get away with anything today.

Senator THURMOND. Does that not encourage more crime that there is not swift arrest, speedy justice and certain punishment?

Mr. HARRINGTON. That, I think, encourages crime.

I think another thing that encourages crime is this appeal and appeal. A man last night on the "Day Before" show, Hayden, who was involved in the Chicago incident, he is out on appeal. He was sentenced but he is on appeal. He advocated last night that policemen should be killed, people should shoot policemen. On the "Day Before" show, as late as last night. Now, this bum should be in jail.

Senator THURMOND. Do you have any questions?

Mr. SOURWINE. No questions, Mr. Chairman.

Senator THURMOND. Mr. Harrington, I want to express my appreciation to you for coming here and testifying and for the fine contribution you have made.

Is Supt. James T. McGuire of the Illinois State Police present? Chief, come forward, please.

STATEMENT OF SUPT. JAMES T. MCGUIRE, ILLINOIS STATE POLICE, SPRINGFIELD, ILL.

Mr. MCGUIRE. It is an honor to appear before this committee and be given the opportunity to express some personal views in this general statement concerning what I feel to be the plight of the American police officer in our Nation today.

For the last decade or two, law enforcement agencies have been trying to convince the major portion of our public officials and the citizens of our Nation, and sometimes even fellow policemen, about the dangers of organized crime. And for that matter, even that organized crime exists. The average person has some difficulty trying to understand how he might prevent a problem by placing a bet at the local bookie or by making a wager on a sport parlay. He does not realize who backs the profits if someone visits a madam or girl. It is almost impossible for people to comprehend how organized crime can infiltrate labor unions and legitimate business.

Convincing most people of what the cancerous growth of organized crime is is certainly no easy task. But it is a task well worth the effort. Slowly, ever so slowly, some people finally began to understand. In recent years, because of the dogged efforts of Federal, State, and municipal investigative and police agencies, with considerable help from some alert and aroused public officials, a growing number of the old dons and others of the Mafia hierarchy have fallen on rough times. There have been indictments and ultimately sentences, often many after prolonged appeals, and some are even doing time. Others have sought early retirement from the rackets, while still others have left the United States for Mexico and other sundry locations.

It has been a long battle and it is still far from over. But today we have a new and far more dangerous problem to face, the revolutionary element that is growing in this country.

Many fine, dedicated police officers have given their lives, others suffered banishment, untold political pressure, and unfortunately, disgrace in the battle of the Mafia or Cosa Nostra. But unfortunately,

never before has the individual policeman, the officer, been in greater physical danger than that which they face today. With tolls in 1970 growing and to the best information that I have received, and not to contradict Mr. Harrington, the previous witness, at least 20 police officers have been slain in unprovoked and senseless acts. This rate of death is greater than twice that of 1969 and more than four times that of 1968.

Over 100 of our police officers have been wounded in terrorist attacks. Police officers are being ambushed, shot by snipers, blown up by bombs, lured to lethal boobytraps, and slain or wounded in planned shootouts.

The dedicated firemen of our cities, towns, and villages are often joining the police in these adverse conditions and again, very few people in our Nation comprehend what is happening. They would much rather hide their heads in the sand and hope this is a short-term problem that will shortly dissipate and go away.

I thank God your committee is not sharing this apathy and is working to forge needed legislation. I pray you can alert others in our Congress to this real and existing situation. Unless something is done and done soon to reverse this present revolutionary trend, this country could be taking a realistic direction toward civil war. I do not believe we have the time to wait for people to become concerned. We must insist they become concerned and insist they become concerned right now. The revolutionary doctrine now being pushed and driven into the minds of our Nation's youth by every act vies with a typewriter or printing press and will require years for correction if correction is at all possible. Many of the witnesses who have preceded me before this committee have spoken of specific persons and incidents relating to the revolutionary movement. If I may, I would like to address some of my thoughts to the evidence of concern by law enforcement officers.

Look at the police operations of this Nation and what do you see? Increased efforts are being directed toward improving the personal protection of our officers. Protective helmets, protective face shields, fragmentation beats, development of armor-type vehicles. Look at our police stations: Windows being bricked in, metal doors replacing those of wood and glass construction, electric door locks being installed. Our police stations are being turned into barricaded fortresses resembling the buildings found in Vietnam and Cambodia. The courts of our free Nation are now being staffed with armed guards. Bomb searches are routine. Persons in attendance are being physically searched. So on and on.

Why? Because law enforcement has been faced with incidents and events that have cost policemen their lives and it is obvious that the old ways of operation are no longer applicable, nor are they safe. We are engaged in open guerrilla warfare with organized and equipped revolutionaries—revolutionaries that play a deadly game without rules while they demand, they absolutely demand, that we follow every constitutional guideline that has ever been established.

The frightening thought is that the targets of our guerrilla adversary can be any symbol within our American system. At present, the police seem to be the paramount target and most subject to attack. But the schools, public buildings, private businesses, and even the courts are now also being brought under attack.

The recent situation in San Rafael, Calif., and even as far as yesterday, the armed takeover of a court and the slaying of a judge, can be duplicated over and over again in any courtroom or in the office of any elected or appointed official in this Nation.

In the last few weeks, our Nation was appalled by the hijacking of overseas airliners by terrorists. Even with the advent of the air marshals, how long do you think it will be before militant groups attempt the same action, trading passengers and aircraft for terrorist leaders now in custody? Only yesterday there was comment in disbelief when witnesses to this committee cited how they had transported weapons and other deadly devices across the country by scheduled airlines for presentation before this body. Our air security system will take time to develop and during this period of development, attack is possible and very probable.

Cities large and small are witnessing increasingly bolder terroristic operations. Each one is programmed to bring about an overreaction by the police. With each terror attack, it is becoming more and more difficult to control and prevent God-fearing, well-disciplined trained police officers from reacting.

For some reason, members of the public and various commissions, frequently in search for causes, tend to overlook the fact that police officers are not made of iron, steel, a manufactured commodity. They are not constructed robots that react by use of electronic circuits. But they are human beings, born of the flesh and subject to all the human frailty of man.

Police officers live, they cry, and they bleed, and they are capable of emotions, and they can become angry. This does not mean they are not good police officers, but it does mean they are human beings and God forbid the day ever arrives when we are successful in creating a police officer that is not human.

How could we express to the public the feeling that comes over a police officer when he responds to a scene such as Omaha last August 17. One officer blown apart and seven others badly wounded by a booby trap? Or in Philadelphia, where an unarmed desk sergeant is assassinated, or Cleveland where officers responding to a false call are ambushed and shot to death. Or Chicago, in my own State, where two officers working in a walk-and-talk program with residents are shot down in cold blood? These men are dedicated to the public service, men with families, men with friends, and men that can never be replaced.

When the term "overreaction" is utilized, does the user ever stop for a moment to think? Think of all the aspects involved? All the police officer asks is that any incident involving him be considered from all sides before he is condemned.

It is the intention of every police agency in this Nation to search out this revolutionary element, to identify them and expose them for all to see. We want the public and especially our young people to be made aware that these social misfits are not seekers of rights for those deprived, not guardians of the oppressed desiring justice, but self-seeking entities who will utilize the poor, the ignorant, the unfortunate and the pseudo-intellectuals to gain that which they rightfully do not wish to earn. We are facing the greatest adversary that has ever chal-

lenged the American law enforcement officer—people more cunning, more evil, more fanatical, more mobile and in many cases better educated than any other that has ever appeared on the American scene.

We, you, the Members of Congress, and we the police of this Nation, must not fail to meet this challenge. For if we do, this Nation can't continue to exist. God willing, with men such as you, dedicated to law with justice for all, men whose devotion to an unheralded and often unrewarding task, we will succeed. We must.

Senator THURMOND. Mr. Superintendent, I want to thank you for your testimony. Do you have any other suggestions than what the Congress is considering here now that might be done in connection with this problem?

Mr. McGUIRE. Well, gentlemen, I had the fortunate opportunity to come in late yesterday afternoon and hear some of the testimony, and I must say that even with the exposure I am given on the State level, I was greatly surprised and well informed by some of the remarks made by some of those previous to me on this stand.

I do not believe that we on the State level can do except concern ourselves with the problems of our individual State and hopefully those of the adjoining States. I feel that you, the Members of the Congress, you the members of this committee, that have the opportunity to take this program and cover our entire Nation and all its possessions, and to amass all the problems and situations that are existing, could best apprise us on a Federal level as to needs of this nature. We can take care of it on the local level. We cannot take care of it on areas much broader than the individual State. This is where we seek the legislation that has been proposed. Though I support in concept, I would appreciate the indulgence of the committee in the opportunity to return to my home State and have the opportunity to review it more clearly and to submit considerations that we feel would help to enhance the legislation as proposed.

Senator THURMOND. We appreciate that. We would be glad to receive any memorandum or letter or information that you have further that you would like to convey to us.

Mr. McGUIRE. Thank you.

Senator THURMOND. I wish to thank you for your fine contribution here.

Mr. McGUIRE. I am glad to have had this opportunity to be present and present my views to this committee.

Again, I congratulate it on the thoughtful work it is doing.

Thank you, gentlemen.

Senator THURMOND. Chief Henry Lux of Memphis, Tenn.

Do you have a written statement, Chief?

STATEMENT OF HARRY LUX, CHIEF, POLICE DEPARTMENT, MEMPHIS, TENN.

Mr. Lux. No, sir; not as such. My statement will be very brief.

Senator THURMOND. Go ahead. We do not want to shorten your testimony. We appreciate your coming here.

Mr. Lux. I appreciate very much being afforded the opportunity to appear before this committee and hopefully, I will say something that is helpful in this legislation.

First of all, I would like to commend the gentlemen who have drawn the three bills that I am familiar with—S. 4325, S. 4348, and S. 4359. I support these bills in their entirety.

To me, gentlemen, it shows an awareness on the part of, specifically, Senators Eastland, Schweiker, Williams, and Thurmond. What I am not authorized, nor do I mean to imply, that I speak for anyone other than myself and my department. I am a member of the 31 Major City Chiefs Association. This is a very loose-knit organization that grapples with approximately 75 percent of the crime of this Nation. This group as individuals first expressed an opinion in their semiannual meeting in San Diego, Calif., last spring, that occurrences of isolated, single incident attacks by revolutionaries on police will increase. When I say revolutionaries, I liken this to if you walk like a duck and talk like a duck, then I assume that you are a duck.

Again in our meeting in conjunction with the IACP conference just concluded, there was again a similar expression, at this point coupled with a great deal of anxiety and concern—concern for our fellow officers and their families—I again commend you gentlemen for your concern—anxiety that unless the officer on the beat and in the patrol car feels that he has the full and complete support of all entities involved in criminal justice, we may experience what I term a gut-level reaction on the part of these officers in desperation based on man's instinct to survive. And I daresay that this might well fit into the strategy of the people who are involved in this matter today.

We can ill afford this. I think more than ever before, we need a professional police service. I think the society definitely needs this. I as a responsible police executive feel very deeply that all facets of our society should enjoy the full protection of the law and all of those rights and privileges this implies.

Let me simply make this statement: There seems to be no hesitation to expend the full weight of our system when a question arises with regard to the rights of an individual or a group not involved as an official part of our system of justice, and this is as it should be. I submit we as police officers are entitled to and expect no less. If it means presidential commission, flying specialized task forces to all corners of the Nation, empaneling grand juries and the like, I think we are entitled to the full resources.

Gentlemen, please remember, when a lonely officer on the beat falls prey to a sniper's bullet or a bomb, an invisible crack in the walls of the very building in which we are sitting will surely occur.

This, gentlemen, is my formal statement. I have one particular case that I can leave you information on. This is a case in point that involves a blind or bogus call, where two officers were lured into a isolated part of the city and strangely enough, the two officers that responded to this call were not the victims of this attempted assassination, which I think emphasizes the fact that the whole purpose was to shoot a "pig." The lieutenant, their immediate commanding officer, decided he wanted to meet them at this point of the call to relay just routine business. And he or his partner was the victim of this attack. There were four men and a woman involved in this who lay in wait. They very cleverly planned this and fired two shots through the squad car, hitting one of the officers in the right leg and he is now permanently disabled.

This, of course, was an attempted assassination. They had no idea where he would be shot. I have a copy of the official report which I would like to submit with this, along with the statement of one of the individuals who turned state's evidence at that time. There is no point in belaboring the hearing with these. If the committee desires these, I will be glad to leave them.

Mr. SOURWINE. May these be received?

Senator THURMOND. Without objection.

(The material referred to follows:)

EXHIBIT 1

HOMICIDE BUREAU, CRIMINAL INVESTIGATION DIVISION, MEMPHIS POLICE DEPARTMENT, MEMPHIS, TENN.

SEPTEMBER 9, 1968.

Re: Arrest Report No. 406-538 MF.

Mr. W. P. HUSTON,
Chief, Criminal Investigation Division.

DEAR SIR: On Sunday, August 25, 1968 at 8:30 a.m., John Gary Williams, MC 23, alias John Gary, residence, 1995 Philsar #3, occupation, musician, Stax Record Co., was arrested at 1995 Philsar #3 by Lt. T. Marshall, Lt. J. D. Williams, Det. W. H. Harris, Ptlm. S. N. Harvey and Ptlm. S. L. Davidson for the *Homicide Bureau*, and later charged with *Assault to Murder*. B of I No. 104566.

On August 25, 1968 at 8:30 a.m., John Gary Williams was permitted to make a phone call, at which time he called Sarah Washington, ph. 946-0783, which was witnessed by M. Crenshaw and T. Marshall. Copies of phone slips are attached hereto.

On Sunday, August 25, 1968 at 8:20 a.m., Womax Sterenson, MC 18, alias "Speedy", residence, 258 Silverage, occupation, volunteer, Neighborhood Organizing Project (NOP), was arrested at 258 Silverage by Lt. S. T. McCachren and Lt. B. G. Hinson for the *Homicide Bureau*, and later charged with *Assault to Murder*. B of I No. 105135.

On August 25, 1968 at 8:52 a.m., Womax Stevenson was permitted to make a phone call, at which time he called Lena M. Ricks, ph. 946-7080, which was witnessed by Mr. Crenshaw and T. Marshall. Copies of phone slips are attached hereto.

On Sunday, August 25, 1968 at 5:00 a.m., Ben Heard Berry, III, MC 18, residence, 17 Farrow #1, occupation, unemployed, was arrested at 17 Farrow #1 by Lt. G. C. Lawhorn, Lt. R. E. Ferguson, Lt. S. J. Martz and Lt. E. Brown for the *Homicide Bureau*, and later charged with *Assault to Murder*. B of I No. 106032.

On August 25, 1968 at 5:15 a.m., Ben Heard Berry, III was permitted to make a phone call, at which time he called Jessie Mae Berry, ph. 942-4117, which was witnessed by G. C. Lawhorn and J. L. McCollough. Copies of phone slips are attached hereto.

On Saturday, August 24, 1968 at 9:55 p.m., Paul McCreight, MC 27, residence, 35 E. Farrow #8, occupation, bail bondsman, Memphis Bail Bond, was arrested at 35 E. Farrow by Ptlm. B. C. Morgan, J. C. Kellum, G. B. Shelby and E. G. Harris for the *Homicide Bureau*, and later charged with *Reckless Driving, Carrying a Pistol (City and State), Carrying a Dangerous Weapon (Rifle)*, and *Referred to Uniform Officers*. B of I No. 73102.

Phone slips for Paul McCreight are not attached as they were attached to the original Record of Arrest when this subject was referred to the Uniform Officers.

On Saturday, August 24, 1968 at 9:30 p.m., Fred Lee Howard, MC 15, residence, 190 Fairview, occupation, student, Carver H.S., was arrested at Gastex and Franks by Ptlm. H. H. Pike and C. F. Williams for the *Homicide Bureau*, and later charged with *Disorderly Conduct* and *Referred to Juvenile Court*. B of I No. none (Juvenile).

No phone slips were attached for Fred Lee Howard as his parents were notified at the time of the arrest regarding his whereabouts.

On Sunday, August 25, 1968 at 2:30 a.m., Margaret Cunningham, FC 23, alias Marva Jean, residence, 23 W. Fields, occupation, clerk, International Harvester,

was arrested at 23 W. Fields by Lt. M. T. York, Ptlm. W. F. Young and J. L. Shotwell for the *Homicide Bureau*, and later Released. B of I No. 106029.

On August 23, 1968 at 3:00 a.m., Margaret Cunningham (alias Marva J. Cunningham), was permitted to make a phone call, at which time she called Lillie Cunningham, ph. WH 8-3759, which was witnessed by James T. Shotwell and R. L. Stokes. Copies of phone slips are attached hereto.

On Saturday, August 24, 1968 at 9:55 p.m., *Charles Louis Bond*, MC 18, residence, 1405 S. Main, occupation, shipping clerk, Wabash Inc., was arrested at 35 E. Farrow by Ptlm. B. G. Morgan and J. C. Kellum, G. B. Shelby and E. G. Harris for the *Homicide Bureau*, and later Released. B of I No. 102674.

No phone slips are attached for Charles Louis Boyd as he was arrested with Paul McCreight, MC 27, and phone slips are attached to Paul McCreight's Record of Arrest when referred to Arresting Officers.

On Sunday, August 25, 1968 at 8:30 a.m., *Johnny Brumley, Jr.*, MC 23, residence, 1995 Philsar #3, occupation laborer, Delta Oil & Refinery, was arrested at 1995 Philsar, #3, by Lt. T. Marshall, Lt. J. D. Williams, Det. W. H. Harris, Ptlm. S. N. Harvey and Ptlm. S. L. Davidson for the *Homicide Bureau* and later Released. B of I No. 106034.

On Sunday, August 25, 1968 at 8:30 a.m., *Emmett House*, MC 26, residence, 1644 Hanauer, by Lt. T. Marshall, Lt. J. D. Williams, Det. W. H. Harris, Ptlm. S. N. Harvey and Ptlm. S. L. Davidson for the *Homicide Bureau*, and later Released. B of I No. 76458.

On August 23, 1968 at 8:51 a.m., *Emmett House* was permitted to make a phone call, at which time he called Davie M. Woods, ph. 942-9788, which was witnessed by M. Crenshaw and T. Marshall. Copies of phone slips are attached hereto.

On August 23, 1968 at 8:30 a.m., *John Burrell Smith* MC 25, residence, 1644 Hanauer, occupation, student, Owens College, was arrested at 1995 Philsar, #3, by Lt. T. Marshall, Lt. J. D. Williams, Det. W. H. Harris, Ptlm. S. N. Harvey and Ptlm. S. L. Davidson for the *Homicide Bureau*, and later Released. B of I No. 103883.

On August 23, 1968 at 8:45 a.m., *John Burrell Smith* was permitted to make a phone call, at which time he called ph. 948-2088, which was witnessed by M. Crenshaw and T. Marshall. Copies of phone slips are attached hereto.

On Saturday, August 24, 1968, at 9:10 p.m., Ptlm. Robert James Waddell, MW 23, was shot one time in the right leg with a rifle by either John Gary Williams, MC 23; Womax Stevenson, MC 18; or Ben Heard Berry, III, MC 18, and an unidentified male colored, while Williams, Stevenson, Berry and this unidentified male colored lay in wait and fired from ambush. After being shot, Ptlm. Robert Waddell remained in the squad car and was later transported to the Baptist Hospital by his commanding officer, Lt. J. D. Moore, car 158 of the Memphis Police Department, and admitted to the Hospital in fair condition.

On Saturday, August 24, 1968, at 9:10 p.m., Lt. J. D. Moore, MW 37, was shot one time in the left leg with a rifle by either John Gary Williams, MC 23; Womax Stevenson, MC 18; or Ben Heard Berry, III, MC 18, and an unidentified male colored, while Williams, Stevenson, Berry and this unidentified male colored lay in wait and fired from ambush. After being shot, Lt. Moore was able to operate the squad car he was driving and drove himself and his partner to the Baptist Hospital where Lt. Moore was treated and released for his injury.

The *Homicide Bureau* investigation will prove from physical evidence and through written statements that the three accused, along with an unidentified male colored, positioned themselves in a grassy area south of the intersection of Yazoo and Davenport, armed with what has been described as high powered rifles, and fired upon a Memphis Police Department squad car occupied by the two victims, Ptlm. Robert Waddell and Lt. J. D. Moore.

Lt. Moore, who is regularly assigned to the Uniform Division, commanding officer for the south end of Memphis, was working the 3:00 p.m. till 11:00 p.m. shift, as he customarily does in the month of August. On this particular night, Saturday, August 24, 1968, Ptlm. Waddell was assigned to ride with Lt. Moore.

On Saturday, August 24, 1968, a known black militant, John Henry Ferguson, MC 20, was arrested on Florida at Trigg in regard to a complaint filed with the Memphis Police Department, and Ferguson was charged with Disorderly Conduct (City and State). Ferguson's arrest created riot conditions, drawing large crowd which had to be dispersed by a number of squad cars. Of these squad cars, one was manned by Inspector J. L. Slaughter, the commanding officer of the entire Uniform Division, working out of the Headquarters District. Inspector Slaughter, after hearing a call over his police radio in regard to a

large crowd gathering on Florida at Trigg at approximately 8:00 p.m., Saturday, August 24, 1968, went to the area to direct his men. Inspector Slaughter described the condition of this area as critical when he arrived, reporting numerous male and female coloreds loitering in the streets, making nuisance of themselves. As he approached, this area, the street was completely blocked and as Inspector Slaughter weaved his way through the cars, he was approached on several occasions by male coloreds wishing to talk to him. Inspector Slaughter estimated the crowd between 50 and 60 people and noted the crowd was directly in front of 1310 Florida, known headquarters of a group of black militants known as the Invaders. Inspector Slaughter was able to work his way through the cars, and finally stopped approximately 200 ft. east of where the crowd was gathered. After he stopped, a majority of the crowd moved toward his squad car and Inspector Slaughter advised this crowd that he would not talk to them as a group, and asked to speak to whoever was in command. A male colored approached Inspector Slaughter and advised that he was in charge, and Inspector Slaughter identified himself to this male colored and asked his name, and the male colored stated that his name was not important, that he had more important things to discuss. Inspector Slaughter had the feeling that this male colored was in charge, because on his command the group moved to the sidewalk and cleared the streets. This male colored inquired of Inspector Slaughter information surrounding the arrest of John Henry Ferguson. Inspector Slaughter advised this male colored that he felt that he knew as much about Ferguson's arrest as he did, but if he wished to learn more, he could go to Central Police Headquarters for that information. The male colored advised that he was not about to go to Headquarters, but if Ferguson wasn't released in one hour (hesitating, then stating an hour and a half), that there was going to be plenty of trouble and that "the old bubble was going to burst."

Inspector Slaughter left the area, went to Central Police Headquarters, where he made a verbal report of this incident to Chief Inspector J. S. Gagliano, and researched files to ascertain the name of the male colored that had made the threat regarding conditions that would exist if Ferguson was not released. Through these files Inspector Slaughter was able to ascertain the name of this male colored, that being Antraiban Shadad, who has been identified by this department as a black militant and as a field marshal of the militant group known as the Invaders.

With this information in mind, Inspector Slaughter left Police Headquarters and felt that he should meet with his South End Lieutenant, Lt. Moore, and advise him of the situation on Florida St. Shortly before 9:00 p.m., Inspector Slaughter did meet with Lt. Moore and his partner, Ptlm. Waddell, on Third St. at Belz. Inspector Slaughter informed Lt. Moore of the conditions, and the two of them decided that all of the South End squad cars were aware of this, with the exception of car 24, whose area encompasses the Florida and Trigg intersection. As Inspector Slaughter and Lt. Moore were talking, a fire call was dispatched on the Police Radio in the area of Florida St. at the Wabash Company on Florida. Inspector Slaughter informed Lt. Moore that he would make the fire call, and Lt. Moore could meet car 24 and bring this squad car up to date as to the threats that had been made regarding Ferguson's arrest.

Lt. Moore was aware that car 24 had received a disturbance call to 270 W. Davant and to expedite matters, decided that he along with Ptlm. Waddell would drive to this location to meet with his Uniform car to bring them up to date on this situation. Lt. Moore proceeded to the area that he had heard car 24 get this call to, driving to Riverside Drive then east on Davant, and felt that that should be the approximate area. Shortly after Lt. Moore had turned onto Davant St., he heard the officers in car 24 ask the dispatcher if 270 Davant was the correct number that he had dispatched these officers to. The dispatcher said that it was and car 24 replied to put them in service, no one at 270 Davant had called. Lt. Moore felt that he was close to car 24's location and proceeded eastward on Davant to the intersection of Yazoo, noting that he would have to turn left at that particular intersection. As he turned, and just as he completed the turn, a shot was fired into the squad car, penetrating the right door of this squad car, then the right leg of Ptlm. Waddell, with fragments of this bullet striking Lt. Moore in the left leg. Ptlm. Waddell made a sound that he was hurt, and Lt. Moore sped up to get out of the line of fire, going to McKellar St., turning left, seeking safety. It was Lt. Moore's thinking that if he turned on McKellar, he might get back to Riverside, but found McKellar to be a dead-end street. Lt. Moore immediately notified the dispatcher that the squad car had been fired on and Ptlm. Waddell hit;

and examined Ptlm. Waddell's wound. Lt. Moore advised the dispatcher of their approximate position, at the same time notifying the dispatcher that he felt that the shot or shots had been fired from the railroad tracks just south or south-east of the intersection of Yazoo and Davant. After noting that Ptlm. Waddell's wound was serious, Lt. Moore decided to turn, having realized that he would have to go out the same way he came into the area, and as he was proceeding east on McKellar, approaching Castex, one of his cars, car 51, that was responding to the call for assistance that Lt. Moore made, met them and car 51 put Ptlm. Waddell into their squad car and took Ptlm. Waddell to the hospital. By this time numerous squad cars were in the area, and a scene search was begun in an effort to locate the parties responsible for this shooting.

It was the cruising squad cars responding to Lt. Moore's call for assistance, that resulted in the arrest of Fred Lee Howard, MC, 15, and David Lawrence Staples, MC, 13. These two young male coloreds were in the vicinity of Riverside and Mallory, and observed by Ptlm. Pike and Williams, running. It was thought by these patrolman, that these two young boys may be involved in the shooting, of Ptlm. Waddell. The Homicide Bureau checked these young male coloreds thoroughly, and they were definitely cleared as being involved in the shooting.

The arrest of Paul McCreight, MC, 27, and Charles Louis Boyd, MC, 18, were also the result of cruising squad cars. McCreight was stopped by Ptlm. B. G. Morgan, J. C. Kellum, G. B. Shelby, and E. G. Harris, after a high speed chase, and on searching McCreight's car, several pistols, and a rifle were found. An investigation by the Homicide Bureau failed to implicate either Boyd or McCreight, in the Waddell shooting, and Boyd was released and McCreight referred to the arresting officers on the charges of Reckless Driving, Carrying a Pistol, City and State, and Carrying a Dangerous Weapon, (Rifle).

The Homicide Bureau was notified by the Police Dispatcher, at 9:20 p.m., Saturday, August 20, 1963 by telephone, and this call was received by Lt. T. H. Smith. The Dispatcher informed Lt. Smith that Ptlm. Waddell had been wounded in his leg, while in a squad car on Davant Street and was now at the Baptist Hospital. Lt. Smith instructed Lt. Jordan and Det. Hester to go to the Baptist Hospital, and informed these officers that he and Det. Willis would go to the scene. Before leaving the Homicide Office, Lt. Smith called Capt. R. A. Cochran at home and informed him about a police shooting, reporting to Capt. Cochran that Lt. Jordan and Det. Hester were en route to the Baptist Hospital, and that he and Det. Willis were going to the scene.

Lt. Jordan and Det. Hester proceeded directly to the Baptist Hospital, where they were met by Lt. Marbry of the Uniform Division, who had been dispatched to the hospital to stand by with Ptlm. Waddell. Lt. Marbry informed the Homicide officers that Ptlm. Waddell was now in Treatment Room #19, and x-rays of the wound had been made and were being prepared for study. Lt. Jordan and Det. Hester interviewed Ptlm. Waddell, while they were waiting for the x-rays, and also noted the injury to his leg. It was noted that the bullet had entered the right leg approximately 3" below the knee to the rear of the leg, just behind the large bone. The wound was a through and through wound, and it was hard to determine from the size of the wound, which was entrance and which was exit. The wound appeared to be about the size of a 25 cent piece, and from the size, the projectile was thought to have been fired from a high-powered rifle. While at the hospital Lt. Jordan and Det. Hester talked with Dr. Harriet Schroeder, Attending Physician, and she reported that the x-rays revealed multiple metal fragments in the interior of the leg, also slight bone chippage to the lower back belly of the knee joint. Dr. Schroeder indicated that this bone chippage would effect the extreme bending of the right leg. It was unknown by Dr. Schroeder, from her preliminary examination, whether permanent injury would result, but she felt that if fragments of the bullet were in the joint, that permanent injury very possibly would occur.

While Lt. Jordan and Det. Hester were making their investigation, at the Baptist Hospital, Lt. Smith and Det. Willis, after conferring with Capt. Cochran proceeded to the scene, which was Yazoo and Davant. When Lt. Smith and Det. Willis arrived at Yazoo and Davant, they found nothing, as there was no one there to be questioned and interviewed. Lt. Smith and Det. Willis left the scene, and returned to headquarters. When they arrived at headquarters, they were met at the rear of the station by Lt. J. D. Moore, Ptlm. Waddell's partner and Commanding Officer, along with Capt. Cochran.

Lt. Jordan and Det. Hester joined Capt. Cochran, Lt. Smith, Det. Willis, and Lt. J. D. Moore at the rear of headquarters, and Lt. Jordan informed Capt. Cochran

that Ptlm. Waddell's clothing had been confiscated, and would be tagged, and left with the Property and Evidence Section. Lt. Jordan further stated that Ptlm. Waddell's parents were at the hospital, and explained the extent of injury to Ptlm. Waddell. The squad car that was manned by Lt. Moore and Ptlm. Waddell at the time of the shooting was then thoroughly checked by Lt. Jordan, and it was noted that the squad car is a 1963 Plymouth, two-door, identified by police equipment No. P-18, and Call Sign, 158, Tennessee License No. GA-4055. It was noted that the projectile struck the right door, passenger side, approximately 36" from the opening of the door, 15" from the opening of the window glass, and 24" from the bottom of the door, making an entrance and exit, traveling at an angle going behind the speaker of the police radio, which is mounted under the dashboard, middleways of the car. Technician Bob Ewing was called and photographs made indicating license number P-Number, entrance of the projectile and blood on the right floorboard.

After the examination of the squad car on the ramp behind the police station, Car 158 was then taken to the City Lot, for a closer examination, by Lt. Jordan and Capt. Cochran. It was noted from this examination, that a portion of the air conditioner underneath the dash of the car, the bullet had entered, after exiting from Ptlm. Waddell's leg. Small fragments of this projectile were found on the driver's side of the floorboard, with photographs being made of these fragments. The path of the bullet was traced from its entrance in the air conditioner under the dash, to the connecting hose on the left side of the air conditioner. This hose showed an exit indicating that the projectile possibly struck the steering column. The steering column was removed by a City Lot Attendant, with negative results, however, behind the floor mats, beside the fire wall, larger portions of the projectile, were found. While the search was being made, the Lot Attendant, Leroy Taylor, heard what he thought was a sound behind the air conditioner, next to the fire wall, but due to the complicated way the air conditioner is installed, against the fire wall, it could not be removed for the search. The particles of fragmented projectile were carefully placed in a glass tube, properly marked, and will be described later in a separate paragraph.

Lt. Jordan and Capt. Cochran returned to the Homicide Office, where they met Lt. Smith, Det. Willis, and Capt. R. L. Williams, and while in the Homicide Office, a phone call was received from a member of the police department, reporting anonymous information regarding this shooting. The information was that a male colored, tentatively identified as Sonny Yancey, of 2196 Castex, No. 15, had made statements that he had witnessed the shooting at the police.

From this information, Lts. S. T. McCachren, J. D. Moore, B. G. Hinson, T. H. Smith, and Det. G. S. Willis went to 2196 Castex, No. 15, and were successful in locating Sonny Yancey. He admitted to these officers, that he had witnessed the shooting at the police, and identified two of the assailants, by name. Yancey stated to these officers that there were four persons firing, but he only knew two by name. After questioning, Yancey identified one of the parties as Speedy, stating his true name was Womax Stevenson, and that he had attended school with Stevenson. Yancey identified another one of the parties, as John Gary, stating that John Gary used to date his sister, Margaret, and John's last name was Williams. He further reported that John Gary Williams was the lead singer for a group known as the "Mad Lads". Both were associated with a group known as The Invaders. Yancey was then brought to the Homicide Bureau to be questioned closely, as to actually where he was standing, and what he had actually witnessed. Yancey furnished this department with a description of the automobile used in this shooting, identifying the car, as owned by John Gary Williams, and stated that Williams was driving the car, when it left the scene of the shooting. With the information received from Yancey, a broadcast was put out; in regards to this call.

The arrest of Margaret Cunningham was a result of this broadcast, as she is the owner and operator of a '67 white over green Cougar, Tennessee License JR-3784. This car was located at 23 W. Fields, by Insp. G. H. Parker, and when questioned, she admitted being in the company of John B. Smith, and in the company of Emmett House, both of whom are known to be affiliated with The Invaders. She refused to answer any further questions, and was arrested for the Homicide Bureau. The investigation revealed that she had been in the company of House and Smith, the afternoon of Saturday, August 24, 1968, but failed to implicate her in the shooting of Ptlm. Waddell. Margaret Cunningham was released without charges.

Lt. Smith, Lt. Moore, Det. Willis, along with the eye witness, Sonny Yancey, returned to the area of the shooting, to establish the exact position of the squad car at the time of the shooting, and Yancey's position at the time of the shooting. With the assistance of Lt. Moore and Yancey, it was established at that time, their exact positions and measurements of the scene were made by Lt. Smith, at that time. Photographs of the scene were made by Lt. Smith, and will become a part of this file. A complete scene description has been reduced to writing, on Supplement Four of the Original CAP Report, and will become a part of this file.

The entire Homicide Office, consisting of Lt. Jordan, Det. Hester, Lt. Smith, Det. Willis, Lt. Hinson, Lt. McCachren, along with Capt. Cochran and Williams, then canvassed the entire area of the shooting in an attempt to locate any witnesses to this shooting. This canvassing and the interviews have been reduced to writing, and will be attached as Supplement No. 2, to the original CAP Report, and will become a part of this file. It can be noted, in Supplement 2, the interview of Percy Farmer, that Farmer had observed the car used by the assailants, and it was Farmer who had called the police, right after the shooting. Farmer also had observed where the assailants had parked their car, and corroborated the interview of statements made orally, by Yancey.

After canvassing, all the Homicide Officers, with the exception of Lts. Hinson and McCachren, returned to the Homicide Office, in an effort to identify the two unknown assailants involved in this shooting. While in the Homicide Office, viewing various pictures of Known Invaders, Sonny Yancey tentatively identified Ben Berry, from a photograph, stating he was with Stevenson, and Williams, at the time of the shooting, and that Berry was close enough to him to get a cigarette from him.

The Homicide Office was notified that Ben Berry had been arrested, and arrangements were made for Sonny Yancey to view a showup. Det. G. S. Willis then went to the City Jail and advised Berry of his rights in regards to a showup, and ASD Form No. 57, was signed by Berry at that time, and will be attached to his report. A showup was conducted at 6:55 a.m. for the benefit of Edward Yancey, Sonny, which consisted of the following:

1. Marion Dobbs, MC, 20, 386-F Butler.
2. Ben Heard Berry, MC, 18 (Suspect).
3. Alfred Hampton, MC, 32, 607-E Handy Mall.
4. Billy Ray Curtis, MC, 22, 2651 Enterprise.
5. John Ferguson, MC, 20, 1279 Pennsylvania.
6. Walter Moore, MC, 42, 1331 N. Willett.

This showup was conducted with Lt. T. H. Smith and Det. G. S. Willis in the rear and Capt. R. L. Williams and Ptlm. J. L. Childers, seated with the witness, Sonny Yancey. At this showup, Yancey stated that he recognized none of the male coloreds in the showup box, and was returned to the Homicide Office, and immediately, on his return to the office, stated to Det. Willis, that he had recognized the subject on Spot #2, as being one of the group who had fired rifles at the police, and explained that he was afraid that the man who he had identified, could see him through the screen, and would know who he was.

While in the south section of the city, Lts. McCachren and Hinson were notified by Captain Cochran that Womax Stevenson had called this department and reported that he was home and wanted someone to come by his house to straighten this matter out. Lts. McCachren and Hinson went to 258 Silverage where the arrest of Stevenson was made.

Lts. T. Marshall, J. D. Williams, along with Det. W. H. Harris, and two uniform officers, Ptlm. S. N. Harvey and S. L. Davidson, were successful in arresting the suspect. John Gary Williams, along with John B. Smith, Emmett House and Johnny Brumley, at Williams' residence, 1905 Philsar. These officers notified Captain Cochran of this arrest, in addition to information that the car had been located and would be held intact for the police wrecker.

Captain Cochran, along with Det. Willis, immediately went to 1905 Philsar where they stood by with the car that belonged to John Gary Williams, and followed the police wrecker to the City Lot where it was held intact to be processed by the Bureau of Identification. The car, 1967 Chevrolet Camaro, Tennessee license, KN-1418, was processed by Det. Technician Holder of the Bureau of Identification. Numerous fingerprints were lifted by Technician Holder, all of which were sent to the FBI Laboratory in Washington, D.C.

A search of the car was made by Lt. F. L. Robbins, and found in the car along with other items were personal identifications of Womax Stevenson and Oree

McKenzie. These identifications, along with the other items, were later properly tagged and left with the Property and Evidence Section under receipt no. A04931, and will be explained in a later paragraph.

At 9:24 a.m., Sunday, August 25, 1968, a show-up was conducted for the benefit of Edward Yancey by Lts. Tom Marshall and J. D. Music, along with Det. E. S. Berkley, which consisted of the following:

Spot No. 1 Womax Stevenson.

Spot No. 2 Charles Boyd.

Spot No. 3 John B. Smith.

Spot No. 4 Ben Berry.

Spot No. 5 Emmett House.

Spot No. 6 John Gary Williams.

Spot No. 7 Johnny Brumley.

At this show-up, Sonny Yancey stated in reference to Spot No. 1, "That's Speedy, Womax Stevenson, he was shooting, he had a rifle." In reference to Spot No. 4, Sonny stated, "I don't know his name, but he was shooting, he had a rifle." In reference to Spot No. 6, Sonny stated, "That's John Gary, he was shooting."

In view of Sonny Yancey's positive identification, and the fact that the three persons that he had identified were known Black Militants and members of a group called the Invaders, security was arranged for Yancey and he was placed in protective custody for his safety. Detectives Burgess and Winters were assigned to Sonny Yancey and arrangements were made to house him in the Claridge Hotel until further arrangements could be made.

A complete scene search was made on Sunday, August 25, 1968 at 3:00 p.m. by Ptlm. F. K. Martin, D. L. Smith, C. L. Harrison, B. C. Howe, F. D. Brawner, W. C. Braden, K. N. Overall, R. D. Colston, and A. N. Black, under the supervision of Lts. T. H. Smith and N. L. Harvey. This search has been included in the No. 6 supplement submitted to the original Crime Against Person Report, and a report rendered by Lt. Smith and Ptlm. Brawner. The search revealed a white metal expansion band found by Ptlm. Frank Martin, and two 7.62 caliber shell casings found by Ptlm. Brawner, all of which were sent to the FBI Laboratory in Washington, D.C. for analysis and will be explained in a later paragraph.

The eye witness, Edward Yancey, was taken to the City Lot where 200 to 300 cars were available for his viewing, by Lts. Music and Robbins and after viewing these automobiles, Sonny Yancey definitely identified the car owned by John G. Williams as the car that he had seen Williams, Berry and Stevenson get into and leave the scene of this shooting minutes after the three of them had fired at a police car, along with an unidentified male colored.

On Monday, August 26, 1968 at 8:00 p.m., Percy Farmer was taken to the Police City Lot and afforded the same opportunity to view the 200 to 300 cars that Sonny Yancey had viewed and Farmer positively identified the car identified by this department as being owned by John G. Williams as the same car that he had seen parked on Castex and Fairview at the time of the shooting at the police car, and the car that he had seen four male coloreds get into and put rifles into and leave the scene in this car with their lights off. A detailed statement was taken from Farmer, and a copy of his statement will be attached to this report.

With the positive identifications of Stevenson, Williams and Berry, search warrants were obtained from the Honorable Judge Beverly Boushe on Sunday, August 25, 1968, of the following places, in an attempt to locate the rifles used in this shooting: 1995 Philser, Apt. 3; 258 W. Silverage; 17 E. Farrow, Apt. 1; 58 E. Trigg; 1664 Hanauer, Apt. 2; and the known headquarters of the Neighborhood Organizing Project, which is also used as the headquarters of the Invaders, 1310 Florida. These searches met with negative results in regard to the rifle, but certain articles were found and will be explained in a later paragraph.

It was learned through the investigation that Emmett House and John B. Smith were together the major portion of the afternoon of Saturday, August 24, 1968. Both Smith and House readily admit that they are part of the Black Organizing Project and are affiliated with the group known as the Invaders. They were aware of Ferguson's arrest Saturday afternoon, August 24, 1968, and from their own statements (oral) were attempting to seek aid from Gerald Fanion and Dr. Vasco Smith for the release of Ferguson when the shooting at the police car occurred. Both admitted they were on Florida St. shortly after Ferguson's arrest and were aware of the riot conditions that existed due to Ferguson's arrest. The investigation failed to implicate either House or Smith

in the Police shooting, but their arrest resulted as they are known black militants and have made statements publicly as to the feelings about the police department.

Johnny Brumley, roommate of John Gray Williams, was cleared of the police shooting through the statements of Shirley Burns and Gloria Goodman. It can be noted in Shirley Burns' and Brumley's statements that they were to attend the James Brown show at the Coliseum and were to leave Brumley's apartment in time to get to this show around 8:00 p.m. However, they were to use John Gray Williams' car, and Williams was not at home when Brumley got ready to leave to pick up Shirley Burns, and the car was not ready for Brumley's use until after 9:00 p.m., and Brumley estimated time of arrival at the James Brown show as 10:07 p.m. This was corroborated by Shirley Burns' statement as she stated they were late, but she was not sure of the time, but knew it was after 10:00 p.m. when they arrived at the James Brown show.

The evidence collected at the scene of this shooting, along with the latent prints lifted from the suspect, William's, car in addition to latent prints of the three suspects, were sent to the FBI Laboratory in Washington, D.C., for comparison and a copy of the FBI report will become a part of this file. This evidence was hand-carried to Washington by Lt. T. H. Smith on Monday, August 25, 1968. A copy of Lt. Smith's report will become a part of this file.

During the investigation it was learned from Percy Farmer that a male colored, Frank Vanibar, of 205 W. Davant, had been in the vicinity of this shooting, driving his automobile, was almost hit by the suspect's car as they fled from the scene. Vanibar was interviewed by Ptlm. Childers and he was a most reluctant witness, and denied seeing or hearing anything in regard to the shooting, stating he did not want to get involved. It is believed by the writer that Vanibar indeed did witness the suspect leaving and could possibly identify them, at least the car, but as stated, is either a reluctant witness or in fear of his well-being. A copy of Ptlm. Childers' report will be attached to this report.

The police records indicating the time the call was received by car 24, in addition to the call placed by Lt. Moore reporting the shooting, were checked and copies were made of the IBM cards indicating these calls, and will become a part of this file.

The area of 270 W. Davant was checked by Det. Stratton and Lt. Nevil to ascertain whether person or persons had actually called the police in regard to a disturbance, or whether car 24 had been lured into the area for the purpose of firing on them. This area checked has been reduced to writing and submitted as supplement No. 7 to the original Crime Against Persons Report. It can be noted from this report that no one could be located in the area who had called the police. The occupant at 270 W. Davant was found to be Spenger Miller, and he reported that he was 70 years of age, lived alone except an occasional roomer, and he had definitely not called the police on Saturday, August 24, 1968.

Arrangements have been made by Ola Yancey, mother of Sonny Yancey, for him to live in St. Louis with his sister, Ruthie Jean Chandler, of 1538 Castle Lane, St. Louis, Mo., phone, 621-2968, area code, 314. Yancey was released from protective custody on August 29, 1968. Ola Yancey reported that her son, Sonny, had arrived safely in St. Louis at 10:40 p.m. on Friday, August 30, 1968. He will remain there until it is safe for him to return to Memphis or to testify in the pending of the three defendants.

Photographs were made of the scene of this incident by Lt. T. H. Smith. Photographs of the car occupied by Lt. J. D. Moore and Ptlm. Waddell were made by Technician Bob Ewing, which included the interior of this automobile. Photographs of the suspect's car were made by Police Photographer Calvin Ellison. All of these photographs will be forwarded to the Office of the Attorney General to be used as evidence in this case at the time of trial in court.

On Sunday, August 25, 1968, at 12:45 p.m., John Gary Williams was brought to the Homicide Bureau by Lt. J. D. Music, at which time he was advised of his rights in regard to making a statement, and at this time he did make an oral statement, reserving the right to make a written statement at a later time.

On Monday, August 26, 1968, at 11:15 a.m., John Gary Williams was again brought to the Homicide Office by Lt. Music, and at this time he was again advised of his rights in regard to making a statement, and at this time he refused to make a written statement. A copy of the oral statement made on Sunday, August 25, 1968, will become a part of this file.

On Monday, August 26, 1968, at 10:45 a.m., Ben Heard Berry was brought to the Homicide Bureau by Lt. B. N. Linville, at which time he was advised of his rights in regard to making a statement and at this time he refused to make a written statement.

On Monday, August 26, 1968, at 10:57 a.m., Womax Stevenson was brought to the Homicide Bureau by Lt. B. N. Linville and advised of his rights in regard to making a statement; and at this time he refused to make a written statement.

At the time of this writing a written statement has not been taken from Ptlm. Robert James Waddell, as he is still confined to the hospital. However, at such time as he is released, a written statement will be taken and will become a part of this file.

A written statement was taken from Lt. J. D. Moore, also a victim of this shooting, and a copy of his statement is hereto attached and self-explanatory.

Written statements were taken from Inspector John Lewis Slaughter, Ptlm. Theodore Miller, Kenneth Edward East, Jr., Percy Lee Farmer, Edward W. Yancey, Jr., Odessa Yancey, Louis Searcy, Connie Mae Boyd Searcy, Larry McHenry, William Lee Anderson, Lawrence Ray Thompson, Johnny Brumley, Gloria Faye Goodman, Shirley Ann Burns, Nellie Payton, Ola Mae Yancey and John Glover, and are attached and self-explanatory.

The rifles used in this case have not been located at the time of this writing, but in the event they are located at a later date, they will be forwarded to the Office of the Attorney General to be used as evidence in the prosecution of this case.

The clothing worn by Ptlm. Waddell at the time of this shooting has been turned in to the Property and Evidence Section under receipt no. AO4912, to be forwarded to the Office of the Attorney General to be used as evidence in this case at the time of trial in court.

In the search of Apartment 1, at 17 E. Farrow, the following was found: One canister of CN gas, two 22-250 spent hulls NOMA brand, one live round, caliber and brand unknown, one machete, and one black gun case and later tagged with the Property and Evidence Section under receipt no. AO1944, to be forwarded to the Office of the Attorney General to be used as evidence in this case at the time of trial in court.

The articles found in the suspect Williams' car, with the exception of three keys and the title to this automobile, which have been tagged and left with the Property and Evidence Section under receipt No. AO4931, will be forwarded to the Office of the Attorney General to be used as evidence in this case at the time of trial in court.

The two 7.62 brass hulls found at the scene of this incident by Ptlm. F. D. Brauner, have been properly tagged and left with the Property and Evidence Section under receipt no. AO4940 to be forwarded to the Office of the Attorney General to be used as evidence in this case at the time of trial in court.

The expansion watchband found at the scene of this shooting by Ptlm. Frank Martin has been properly tagged with the Property and Evidence Section under receipt no. AO4941, to be forwarded to the Office of the Attorney General at the time of trial in court.

A vial containing segments of a projectile recovered from squad car 158, P-18, have been properly tagged with the Property and Evidence Section under receipt no. AO4930, to be forwarded to the Office of the Attorney General to be used as evidence in this case at the time of trial in court.

Twelve palmprints and a sealed envelope containing 26 fingerprints lifts, and a Black Power Circular have been properly tagged with the Property and Evidence Section under receipt no. AO5184 to be forwarded to the Office of the Attorney General to be used as evidence in this case at the time of trial in court. The palmprints are those of the suspects arrested in this case, and properly listed as to name. The fingerprint lifts are lifts obtained from the suspected car and have been explained in the FBI reports. The Black Power circular was also confiscated during the search of the suspected car.

A black Browning pistol case, 11 rounds of 9 mm. live Luger shells, a pistol clip, one live 12-gauge shotgun shell and two spent shotgun shells found in the search of 1644 Hanauer, Apt. 2, the home of John B. Smith, was properly tagged and left with the Property and Evidence Section under receipt no. AO4947, and will be released at a later date.

The Iver-Johnson .38 caliber blue steel pistol, along with four .38 caliber shells found in the search of 58 E. Trigg, the home of Stella Moore, has been checked through the Pawn Shop Squad at 4:45 p.m., August 27, 1968. This pistol had been properly tagged and left with the Property and Evidence Section under

receipt no. AO4943, and was released through the City Attorney's office to the owner on Tuesday, August 27, 1968.

The vial which contained what was thought to be marijuana, and later it was found not to be marijuana by the FBI laboratory in Washington, D.C., found in the apartment at 1995 Philsar, Apt. 3, was properly tagged and left with the Property and Evidence Section under receipt no. AO4946, will be disposed of at a later date.

The Auto Theft Bureau was notified by the writer on Tuesday, August 27, 1968, that the Homicide Bureau had no further hold on the 1967 Camaro Chevrolet, Tennessee license, KN-1418, owned and operated by the suspect, John G. Williams, and this car could be released.

On Monday, August 26, 1968, at 12:10 p.m., John Gary Williams was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Captain Perry Williams that this subject does not have a previous record with this department.

On Monday, August 26, 1968, at 12:10 p.m., Ben Heard Berry III was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Capt. Perry Williams that this subject does not have a previous record with this department.

On Monday, August 26, 1968, at 12:10 p.m., Womax Stevenson was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Capt. Perry Williams that this subject does have a previous record with this department; however, this record reflected no felony convictions.

On Sunday, August 25, 1968, at 2:10 p.m., Paul McCreight was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Captain Williams that this subject does have a previous record with this department, listing one felony conviction.

On Sunday, August 25, 1968 at 8:00 p.m., Fred Lee Howard was not processed, as he is a juvenile, but was checked through the Bureau of Identification, at which time it was learned in checking with Technician Franklin that this subject does not have a record with this department.

On Sunday, August 25, 1968, at 8:00 p.m., David Lawrence Staples was not processed as he is a juvenile, but was checked in the usual manner, at which time it was learned from Technician Franklin of the Bureau of Identification that this subject does not have a previous record with this department.

On Monday, August 26, 1968, at 12:10 p.m., John Burrell Smith was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Captain Williams that this subject does have a previous record with this department; however, this record did not reflect any felony convictions.

On Monday, August 26, 1968, at 12:10 p.m., Emmett House was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Captain Williams that this subject does have a previous record with this department, and this record reflected one felony conviction.

On Sunday, August 25, 1968, at 8:30 p.m., Johnny Brumley, Jr., was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Technician Ewing that this subject does not have a previous record with this department.

On Sunday, August 25, 1968, at 2:10 p.m., Charles Louis Boyd was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Captain Williams that this subject does have a previous record with this department, and this record reflected one felony conviction.

On Sunday, August 25, 1968, at 6:00 a.m., Margaret Cunningham was processed through our Bureau of Identification in the usual manner, at which time it was learned in checking with Technician Brewer that this subject does not have a previous record with this department.

Copies of all written and oral statements, offense reports, all supplements, photographs, FBI Laboratory Reports, Departmental Communications, Departmental letters, and a copy of this Arrest Report will be furnished to the Office of the Attorney General to be used in the prosecution of this case at the time of trial in court.

On Tuesday, August 27, 1968, the facts were presented to the Grand Jury and after hearing the facts in this case, true bills were returned against John Gary Williams, Womax Stevenson and Ben Heard Berry, III. Capiases were issued by the Sheriff's Office for John Gary Williams, Nos. 18003, 18002, 18004, and

18007. Capiases were issued for Womax Stevenson, Nos. 18002, 18003, 18006 and 18007. Capiases were issued for Ben Heard Berry, III, Nos. 18002, 18003, 18005 and 18007. Captain Sid Hall of the Sheriff's Office advised the writer that he and some of his men would be present in City Court for the hearing, to effect these capiases.

Captain R. A. Cochran, along with the writer, advised the City Attorney, Mr. Joe Canale, of the fact that Stevenson, Williams and Berry had been indicted by the Grand Jury and capiases issued, and Mr. Canale advised us that he would accompany us to Division II of City Court so that Judge Weinman might be advised of these facts.

On Tuesday, August 27, 1968, at the regular 1:30 p.m. session of City Court, Division II, John Gary Williams, Womax Stevenson, and Ben Heard Berry, III, were scheduled to be arraigned before the Honorable Judge Bernie Weinman; however, at the time this case was called, Judge Weinman was advised of the fact that the three defendants had been indicted by the Grand Jury, and Captain Sid Hall of the Sheriff's Office was present in the courtroom with capiases for the Sheriff's Office. Judge Weinman stated in view of that fact, his court had no further jurisdiction, and the three defendants were released to the Sheriff's Office. At this hearing Attorney Jack Clemons reported to Judge Weinman that he represented Womax Stevenson and wanted it on record that he did not waive the preliminary hearing for his defendant. Attorney Russell X. Thompson stated to the court that he represented the defendants Berry and Williams and thought he represented the defendant, Stevenson, and he too wanted it on record that he did not waive the preliminary hearing for Williams and Berry.

David L. Staples and Fred Lee Howard were referred to the Juvenile Court on the charges of Disorderly Conduct, on Sunday, August 25, 1968 at 8:00 p.m. A tentative setting for a hearing on these charges has been set. However, at the time of this writing, a disposition is not known. At such time that it is known, this disposition will be included in this file.

Respectfully submitted.

*Lt. J. D. Music,
Lieutenant, Homicide Bureau.*

Victims:

Robert James Waddell, MV 23, residence, 4511 Tutweiler, ph. 682-8705
R & I No. 406-538 (Master File).
Jackie D. Moore, MV 37, residence, 4166 Tant Cove, ph. 386-6904 R & I No. 406-960.

Witnesses:

Percy Lee Farmer, MC 30, residence, 206 Fairview, ph. 947-6872.
Edward W. Yancey, Jr., MC 18, residence, 2196 Castex, #15, ph. 942-1162.
Odessa Yancey, FC 17, residence, 2196 Castex, Apt. 15, ph. 942-1162.
Ola Mae Yancey, FC 47, residence, 2196 Castex, #15, ph. 942-1162.
Louis Searcy, MC 54, residence, 198 Fairview Drive, ph. 948-6010.
Connie Mae Boyd Searcy, FC 34, residence, 198 Fairview Dr., ph. 948-6010.
Larry McHenry, MC 18, residence, 2884 Horn Lake Rd., ph. 946-7778.
William Lee Anderson, MC 18, residence, 234 W. McKellar, ph. 942-2392.
Lawrence Ray Thompson, MC 18, residence, 205 W. Frank, ph. 948-7808.
Johnny Brumley, MC 23, residence, 1995 Philsar, Apt. #3, no phone.
Gloria Faye Goodman, FC 18, residence, 2163 Kansas, no phone.
Shirley Ann Burns, FC 20, residence, 88 W. Gage, ph. 946-7108.
Nellie Payton, FC 68, residence, 2196 Castex, Apt. 1, no phone.
John Glover, MC 40, residence, 180 W. Mallory, Apt. 15, ph. 942-9705.

Officers:

Inspector John Lewis Slaughter, 7763.
Ptlm. Theodore Miller, 5223.
Ptlm. Kenneth Edward East, Jr., 2491.
Ptlm. J. L. Childers, 1290.
Ptlm. F. D. Brawner, 0297.
Ptlm. F. K. Martin, 5272.

Investigating Officers:

Captain R. A. Cochran, 1216.
Captain R. L. Williams, 9103.
Lt. F. L. Robbins, 7098.
Lt. S. T. McCachren, 5133.
Lt. B. G. Hinson, 3270.
Lt. B. N. Linville, 4760.

Lt. J. G. Ferguson, 2617.
 Lt. G. E. Jordan, 4195.
 Lt. T. H. Smith, 7772.
 Lt. J. D. Music, 5209.
 Det. G. S. Willis, 9108.
 Det. W. C. Hylander, 3301.
 Det. R. N. Stratton, 7788.
 Lt. T. Marshall, 5167.
 Det. E. S. Berkley, 0264.
 Lt. L. G. Nevil, 6284.
 Det. James R. Hester, 3263.
 Lt. N. L. Harvey, 3256.
 Lt. G. C. Lawhorn, 4749.
 Lt. S. J. Mar6z, 5171.
 Lt. E. Brown, 0291.
 Lt. J. D. Williams, 9099.
 Det. W. A. Harris, 3303.

Approved.

R. A. COCHRAN, Captain.

EXHIBIT 2

STATEMENT OF BEN HEARD BERRY, MC, RELATIVE TO THE SHOOTING OF PATROLMAN ROBERT JAMES WADDELL AND LIEUTENANT J. D. MOORE OF THE MEMPHIS POLICE DEPARTMENT

Q. Ben, you are presently incarcerated in the Shelby County Jail under indictment on the charges of Assault to Commit Murder in the First Degree, arising August 24, 1968, wherein Ptlm. Robert James Waddell and Lt. J. D. Moore of the Memphis Police Department was shot, is that correct?

A. That is correct.

Q. It is my understanding that you desire to give a full and complete statement as to your knowledge surrounding this incident, is that correct?

A. That is correct.

Q. Are you making this statement freely and voluntarily?

A. Yes.

Q. Is your attorney, Russell X. Thompson, present at this time?

A. Yes, he is.

Q. And are you making this statement after consultation and conference with Mr. Thompson and his advices?

A. Yes.

Q. Has Mr. Thompson advised you as to your constitutional rights as to making this statement?

A. Yes, he has.

Q. You understand fully that you do not have to make any statements?

A. Yes.

Q. Do you understand that any statement you make may be used against you in a court of law.

A. Yes.

Q. You have an attorney of your own choice present at this time?

A. Yes.

Q. You understand that there are no promises of immunity made by any law enforcement officer, agency, or an official of the Attorney General's Office given to you to induce you to make this statement that you are about to make?

A. Yes.

Q. No one in the previously defined category has given you any hope of reward for making of this statement, is that correct?

A. Yes.

Q. Do you understand what the term promise of immunity or hope of reward means?

A. Yes.

Q. Has this been defined to you by your attorney Russell X. Thompson?

A. It hasn't been defined but I understand.

Q. With this advice in mind, do you wish at this time to make a statement freely and voluntarily to me?

A. I do.

Q. Who was with you on August 24, 1968, and participated in the incident resulting in the wounding of Pilmon, Waddell and Lt. Moore?

A. There was John Gary Williams, Womax Stevenson, Oree McKenzie, and a female. It was John Gary's girlfriend. I don't know her name because I had only seen her about twice. I don't know her name.

Q. How did you know it was John Gary's girlfriend?

A. He made that statement.

Q. When were the plans made to shoot these officers or any officers?

A. They were made after they arrested John Ferguson.

Q. Were they made because of the arrest of John Ferguson?

A. Yes.

Q. Where were the plans made for this ambush?

A. The initial plans?

Q. Yes.

A. They were made up right after the arrest. What was to happen was brought up after the arrest. The plans were made on the way to the ambush.

Q. Where were you when word was received that John Ferguson had been arrested?

A. At the NOP office which is now the Community Relations Office on Florida.

Q. Do you know the address on Florida?

A. I'm not sure. It is in the block between Trigg and Florida and Ashby and Florida.

Q. Who was present when word was received of the arrest of John Ferguson?

A. There was a large group of us there because we had planned for a benefit dance that night so there were a lot of us there at the time of the arrest.

Q. Whose idea or suggestion was it to ambush a police officer?

A. The idea was Oree's idea.

Q. Now was he talking to you or more people at this time?

A. It was just four of us.

Q. When you say four, who were the four?

A. Oree, John, Womax, and myself.

Q. This location or where this conversation took place, was it at that time known as the office or headquarters of a group known as the Invaders?

A. It was not mostly known as the headquarters of the Invaders, but it was mostly where all of us met.

Q. Describe the office?

A. One large room, just a store front building.

Q. What time was it when you learned of Ferguson's arrest, and started to discuss the possibility of abushing a squad car?

A. It was somewhere between eight and eight-thirty cause it was before the squad car that Ferguson was in had pulled away because the statement was made that if he wasn't cut loose within an hour all Hell would break loose.

Q. When you make the statement that the statement was made at Invader headquarters to a police officer that all Hell would break loose within an hour, do you know the name of the officer?

A. He was a lieutenant.

Q. Do you know Insp. Slaughter of the MPD?

A. No.

Q. Were the four of you present when this statement was made to the police officer at this time?

A. No.

Q. Who was not present?

A. John Gary Williams.

Q. Do you know where he was at that time?

A. No, I don't.

Q. How long did you remain in this location before you went anywhere?

A. I stayed around nearly fifteen or twenty minutes and that was, between time Williams arrived.

Q. Did Williams have anyone with him when he arrived?

A. This young lady. The young lady that was also present at the ambush and participated in it.

Q. Is this young lady that you have been describing as John Gary's girlfriend, does the name Gloria Faye Goodman mean anything to you?

A. Yes.

Q. Is this Gloria Faye Goodman the young girl that has been described as John Gary Williams' girlfriend?

A. Yes.

Q. To the best of your knowledge and recollection, what time did you leave this location on Florida?

A. It was approximately eight-thirty.

Q. Then the activities that you described earlier took place prior to eight-thirty?

A. Yes.

Q. And at what time did they start, in other words, at what time did you arrive and find out that John Ferguson had been arrested?

A. Like I said, I was present when he was arrested.

Q. When you left this location on Florida Street were you walking, riding, or just how did you leave?

A. We ran around to my apartment.

Q. Your apartment, and that is at 17 East Farrow?

A. Yes.

Q. And what did you do there?

A. There we picked up some fire arms, rifles.

Q. How many rifles did you pick up?

A. We got three.

Q. Would you describe these rifles please?

A. One was a 7.62 Russian make. The other was a 303 British carbine and a 22.250 Remington, all three were bolt action rifles.

Q. Did you pick up any other fire arms at that time or did you have any other fire arms at that time?

A. No.

Q. Who lived at 17 East Farrow beside yourself?

A. My wife and son.

Q. How long had you had these weapons?

A. I had them mostly the summer on and off most of the summer.

Q. When you say you had them on and off, do you mean you were loaning them to other people or in other words giving them to other people?

A. Well the three rifles were not mine. Only one of them was mine and that was the 303 carbine.

Q. Who did the other two belong to?

A. The 22.250 belonged to John Burrell Smith; the 7.62 belonged to Charles Laverne Cabbage.

Q. I'll show you a picture of a person known to the police as John Burrell Smith and ask you if this is the same John Burrell Smith you named as the owner of these rifles?

A. That is correct.

Q. I'll show you a picture of a person known to the Memphis Police Department as Charles Laverne Cabbage and ask you if this is the same Charles Laverne Cabbage you have identified as being the owner of one of these rifles?

A. Yes.

Q. Where did you keep the rifles in your apartment?

A. I keep them in two different places, sometimes I would keep them in the closet and sometimes under the sofa.

Q. How did you come to have possession of the rifles owned by Cabbage and Smith?

A. Smith and Cabbage were both keeping their rifles in the same place, that was at Cabbage's mother's house on Engle and seeing as how the police knew the home address of each one, it was brought up that I would keep them because my address and identity to the police was unknown at that time.

Q. You were not known as an active black militant at that time by the police department and it was the opinion of all that it would be safer to keep them at your place, is that correct?

A. It was the opinion of the two of them.

Q. Where did you get your rifle?

A. I bought it.

Q. And from whom did you buy it?

A. Woolco at southgate.

Q. Do you know where Cabbage and Smith got theirs?

A. There supposed to be stolen as far as I know.

Q. When you say they were stolen, do you know of your own knowledge that they were stolen?

A. I was told they were stolen.

Q. Do you know where they were stolen from?

A. No, I don't.

Q. Where did your ammunition for these various rifles come from?

A. We bought it.

Q. Where was it bought?

A. Woolco, York Arms, and different hardware places.

Q. How long did you remain at this apartment after leaving the location on Florida Street on August 24, 1968?

A. I would say about five or ten minutes at the most.

Q. Just long enough to get the rifles?

A. That's correct.

Q. Who was with you when you arrived at your apartment?

A. Womax Stevenson and Oree McKenzie.

Q. Where was John Gary Williams?

A. He drove his car on around to my apartment and brought it up through the back.

Q. When you left, did you get in a car?

A. Yes.

Q. Whose car was that?

A. It was John Gary's car.

Q. Would you describe that car?

A. Green Camarro.

Q. Is there any distinguishing feature to the car that you can think of that could make you know that it was his?

A. No, there is not to my knowledge.

Q. Have you ever ridden in that car prior to that night?

A. Yes I have once.

Q. When you got outside who was in the car?

A. Just John and Gloria.

Q. Who got in the car?

A. Three of us, Womax, Oree and myself.

Q. Would you locate the individuals as to where they were sitting in the car?

A. John was driving, Gloria was sitting next to him and Oree was in the back seat on the right hand side; I was in the middle and Womax was to my left.

Q. Did you bring the rifles out with you when you came out of your apartment?

A. Yes.

Q. What did you do with them?

A. We put them in the trunk.

Q. Describe how the rifles were placed in the trunk of the car?

A. John unlocked the trunk; I put in a rifle; Oree put in a rifle; and Womax put in a rifle.

Q. Where was Gloria while the rifles were being put in the trunk?

A. She was still sitting in the car.

Q. Was she aware that you were in possession of rifles and putting them in the car?

A. Yes.

Q. Where did you go when you left your apartment?

A. We went back to the office, went up the rear and came to the back of the office.

Q. Were you in the car at this time?

A. Yes we were.

Q. Did one or more of you enter the office?

A. Yes sir. It was myself, Oree McKenzie, Womax and Gary stayed outside in back and Gloria was still in the car.

Q. What was the purpose of returning back to the office?

A. Went back to get some ammunition.

Q. And did you get ammunition?

A. Yes we did.

Q. Where was the ammunition kept?

A. It was on a shelf in the back of the office; it is more like a loft in the back of the office.

Q. How much ammunition did you get?

A. Just enough to fill each rifle and two extra.

- Q. When you say fill the rifle do you mean one round each or a clip?
- A. Clip, you know the maximum it would hold.
- Q. Would each of these rifles fire the same type of ammunition?
- A. They were the same types but different lead types.
- Q. Were the cartridges interchangeable?
- A. No.
- Q. How long did you say you were at the headquarters on Florida Street at this time?
- A. About five minutes.
- Q. What did you do when you left?
- A. Before we left Oree got a fire arm piece from John Smith.
- Q. Describe the fire arm piece.
- A. It looks to be a 45 but it is a 9 millimeter.
- Q. Where did you all go then?
- A. After we left we went, we sat in the car about two or three minutes to decide where the ambush was to take place. We came to the conclusion that it should happen in South Memphis because the incident of John Ferguson's arrest happened in South Memphis and we should keep it in South Memphis.
- Q. Who participated in the discussion as to the location of the ambush?
- A. John Gary, Womax Stevenson, Oree McKenzie and myself.
- Q. Did Gloria Faye Goodman enter into this discussion at all?
- A. No, she didn't.
- Q. Was she present when this discussion took place?
- A. Yes.
- Q. Did you have any plan on how this should take place?
- A. Not at that moment.
- Q. Did you formulate a plan as to how it should take place?
- A. No.
- Q. But you did arrive at a location for it to take place at that time?
- A. Just a general location, South Memphis.
- Q. How did you end up at the location that you ended up?
- A. It was Gary that made the statement that that would be a nice location because there was only two ways they could come and more than likely they would come from the west heading east that was because there was no streets that run into that street.
- Q. Would you describe this location as to streets?
- A. I'm not too familiar with that part of the city. It was down by the lumber yard.
- Q. Do you know the name of the lumber yard?
- A. No.
- Q. Did you have a discussion as to the parts to be played by the various people enroute to this location?
- A. Yes.
- Q. Relate as best you can the conversation that took place as to the parts?
- A. It was understood that Gloria would make the phone call to police headquarters.
- Q. What was the call to consist of?
- A. It was just to get the officers to the scene; that there was a fight or something to direct some patrolmen, or her son came home drunk or something.
- Q. Do you know the address and street name that she was to call the police to?
- A. I don't know the address but it should be about the second or third house from the corner.
- Q. On what street?
- A. I don't know.
- Q. Whose idea or who made the initial suggestion to ambush a squad car in retaliation for the arrest of John Ferguson?
- A. Oree.
- Q. Ben, was this more or less a mutual or did one of the four of the men you named assume a leadership role in setting up this ambush?
- A. It started out as a mutual agreement and Gary took it up from there. He started formulating the different positions each person would play in the ambush.
- Q. Were your plans to ambush a squad car directed to a certain individual or personal individual or just was it any squad car or individual that would come along?
- A. Any squad car.

Q. Did you discuss this while you were in the car enroute to this location from Florida street?

A. It was discussed enroute.

Q. Was that when all the individual's parts were set out?

A. Yes.

Q. Just describe what your final plans were as to how this ambush was to take place and the steps you took to set this in final motion?

A. Womax, Oree, Gary, and myself, we were to stay at the scene while Gloria would go make a phone call to police headquarters.

Q. You do not know the name of the street but would you describe it as it appeared to you, the street and where you were standing?

A. It wasn't really a street; it was a deadend where it runs into a railroad.

Q. Is that railroad commonly known as the Yazoo railroad?

A. I don't know.

Q. Where were you and the other men to stand in relation to the railroad?

A. We were to stand on the east side of the tracks because that was where the get away car was.

Q. Are you sure about that being the east side of the tracks?

A. That is correct.

Q. Was it prearranged as to where the car was to be parked?

A. Yes.

Q. And where was that car to be parked?

A. It was at the end of a pathway.

Q. Which direction was the car headed?

A. It was headed South; the pathway runs into a street; I don't know the name of the street.

Q. Do you know anyone that lives in that area where the car was parked?

A. Yes.

Q. Who were they?

A. Some school mates.

Q. Can you name them or do you just know them by sight?

A. Just by sight.

Q. Who was to remain with the car?

A. Gloria.

Q. Did she let all four of you out at the location that you were to effect the ambush from?

A. Yes.

Q. Where did you get out of the car?

A. We got out of the car right at the dead end on the eastern side of the track.

Q. Where was Gloria to make the phone call from?

A. A phone booth.

Q. Do you know the location?

A. I think it was the one by the Playboy Villa.

Q. Who designated where the car would be parked?

A. Gary.

Q. Were all of you aware of where the car was to be parked?

A. Yes we were.

Q. How long were you at the location before a squad car came by?

A. Immediately after we got there a squad car came by; it was on routine round I guess.

Q. Was anyone other than the four of you present at this time?

A. At that time no.

Q. Is this the squad car that you ambushed?

A. I don't know if that was the car we shot at but we did not shoot at this time.

Q. Why didn't you shoot at this car at this time?

A. We didn't shoot at this car this time because basically we weren't set up and Gloria wasn't back with the car yet.

Q. How do you know that Gloria wasn't back with the car?

A. Because from where we were at we could walk up the path a little way and see the car.

Q. How long were you there before the squad car that you shot at came by?

A. I would say about ten or fifteen minutes.

Q. Were the four of you standing there on a path behind bushes, weeds, trees or in any way obscured from sight?

A. Yes.

- Q. What obscured you from sight?
- A. There was an elevation of the land for one thing and all around was bushes and weeds.
- Q. While you were there, did you see anyone else?
- A. Just before the shooting a guy came walking across the path and across the tracks toward us.
- Q. Do you know his identity?
- A. No I don't.
- Q. Would you know him by sight even?
- A. No.
- Q. Is he the only person that came along during this ambush?
- A. Yes.
- Q. Did this individual seem to know you, John Gary, Womax or Oree?
- A. Yes.
- Q. Who did he seem to know?
- A. Oree and Womax.
- Q. Did he have some conversation?
- A. I think it was Oree that asked him for a cigarette as he approached us.
- Q. Did they light a cigarette at that time?
- A. He didn't have any more so he just gave him what he had left with that one.
- Q. Are you positive that this individual wasn't present when the first squad car came by?
- A. He wasn't.
- Q. Did anyone say anything prior to shooting?
- A. Oree, he made the statement here they come again.
- Q. What direction was this squad car coming?
- A. It was from the west headed east.
- Q. Is the area lighted; is there a street light in this area?
- A. Yes.
- Q. Where is this street light located?
- A. There was a street light behind us; we would have to pass under it to get to the car and there was another one where the squad car was to pass.
- Q. How many weapons were fired at this particular squad car?
- A. Four.
- Q. Three rifles and the 9 millimeter pistol?
- A. Yes.
- Q. Did you eject your shell?
- A. Yes.
- Q. To your knowledge did anyone else eject the empty shell?
- A. Yes.
- Q. Who?
- A. Oree, Womax, and myself.
- Q. Who had the rifles and who had the pistol?
- A. Gary, Womax and myself had the rifle. Oree had the pistol.
- Q. Did Oree bother to pick up the shell that was ejected from the pistol?
- A. No.
- Q. How many shots were fired in all, Ben?
- A. One for each piece; everyone thought it was a miss so we just left.
- Q. You left immediately?
- A. Yes, Oree was going to, but we thought it was a miss and there was no reason to hang around.
- Q. Was your purpose in firing at this squad car to kill one or both of the occupants?
- A. Just to fire at the squad car; we were just aiming at the car in general, not necessarily the officers.
- Q. Did you leave your place of ambush immediately after the shots were fired?
- A. Yes.
- Q. Which direction did you go in?
- A. We left on foot east to where we were to go to the car; then we headed south to get to the car; in other words we had two paths to go down.
- Q. Were the four of you moving together?
- A. Yes.
- Q. Were you running or walking?
- A. We ran.

Q. After the shots were fired, what happened to this unknown person?

A. He ran with us; he ran when we ran.

Q. Were all five of you running together?

A. Yes.

Q. When you reached the car, did you see anyone on the streets near your car?

A. No one but Gloria and she was sitting in the car.

Q. Was the motor running or not running?

A. I'm not sure, but the trunk was open so all we had to do was put the rifles in.

Q. Who arrived at the car first?

A. Gary.

Q. Were all the weapons thrown in the trunk of the car?

A. Yes.

Q. What would you say the distance to the closest house from the car was parked?

A. It was a short distance.

Q. Did you see anyone when you came back and put the guns in the car and left?

A. Not when we got in the car but when we went on down the street in the front of a cafe there was a group of people.

Q. What happened if you know to the person who came up and was present when the shots were fired after you all ran?

A. I don't know.

Q. Did he get in the car with you?

A. No.

Q. Who drove away?

A. Gary.

Q. Were the five of you still in the car?

A. Yes.

Q. What direction did he go?

A. He headed south till we got to Malry then went back to the expressway.

Q. When you reached Malry, did you go right or left?

A. Right, back to the west.

Q. Where did you go then?

A. We headed back to my apartment. We stayed on the expressway back up to McLemore.

Q. Did everyone get out at your apartment?

A. We didn't get to the apartment.

Q. What happened?

A. We got to McLemore and Kansas and Oree and Womax got out there.

Q. Had there been any discussion as to where they were going or what they were going to do?

A. They were going to get out and go to the office, at least that was my understanding.

Q. Where were they the last time you saw them on August 24?

A. They were headed south on Kansas, Oree and Womax.

Q. What did you, John Gary, and Gloria do after they got out of the car?

A. We went on up to Florida and that's where I got out.

Q. Where did you go?

A. I was headed home then; it was only a block.

Q. Wouldn't it have been easier for Oree and Womax to reach the office if they had gotten out at Florida and McLemore rather than Kansas and McLemore to reach the headquarters?

A. Yes, but we didn't want to be seen together.

Q. Was there any conversation from the time you got in the car after the shooting until Womax and Oree got out of the car at Kansas and McLemore and if so, tell me when and by whom.

A. When we got in the car I thought it would be best to go east to Florida rather than west to the expressway and Gary made the statement that it would be best to go to the expressway because if the crime was done in the city limits then the expressway would be the best place outside of the jurisdiction of the city police.

Q. Was there anything said after Oree and Womax got out of the car?

A. No but when I told him to let me out at Florida?

- Q. Did John Gary or Gloria say where they were going when they left?
- A. No.
- Q. Do you know John Brumley?
- A. No.
- Q. Was there any mention made by anyone in the car as to what would be said if anyone was apprehended and charged with this crime as to their whereabouts on this night?
- A. Nothing.
- Q. Was there any mention made of an alibi of any sort by anyone?
- A. No.
- Q. Where was John Gary and Gloria the last time you saw them on August 24, 1968?
- A. They were headed east on McLemore after I got out.
- Q. Did they say where they were going?
- A. No.
- Q. When was the last time you saw the weapons that were used in this ambush shooting?
- A. When we put them in the trunk.
- Q. Do you know where they are today?
- A. No, they were supposed to be destroyed.
- Q. By whom?
- A. Oree was to destroy them after the three of us were arrested and he was the only one out.
- Q. You been in jail since the date of your arrest August 25, 1968. Have you seen or talked with Oree McKenzie since that date?
- A. No, I haven't.
- Q. Have you seen or talked with John Gary Williams since that date of your arrest and placed in Shelby County Jail?
- A. No.
- Q. It is my understanding that Womaz Stevenson is still in the Shelby County Jail.
- A. That is correct.
- Q. Have you talked with him since you were both placed in the jail?
- A. As far as a conversation no, but we have spoke to each other.
- Q. Have you had any visitors from any black militant groups or invaders specifically since you were in the jail?
- A. No, the only ones on the visiting list are my family.
- Q. What would be Oree McKenzie's defense in this case, if you know?
- A. I don't know.
- Q. Ben, do you hold any office or were you an officer in the invaders prior to your arrest?
- A. Yes.
- Q. What was your title?
- A. Vice chairman in the invaders.
- Q. Who were the other officers?
- A. There was Chairman Richard Cabbage; Treasurer Larry Davis; Executive Secretary Oree McKenzie; Minister of Defense Arthur Norwood.
- Q. This ambush shooting, was that as a direct result and as a retaliation for the arrest of John Ferguson?
- A. Yes, it was.
- Q. Was John Ferguson any sort of an officer of the invaders?
- A. No.
- Q. Was he a leader of any kind?
- A. He wasn't directly a leader but he was considered a leader by the public.
- Q. Was he respected and liked by the invaders as such?
- A. Yes.
- Q. After you got out of the car on August 24, 1968, at Florida and McLemore, did you in fact go to 17 East Farrow at that time?
- A. Yes.
- Q. Who was at home at that time?
- A. There was no one at home.
- Q. What time did you arrive home?
- A. I would say it was about 9:25, 9:30.
- Q. Did you know where your wife and child were at that time when you arrived home?
- A. At that time no.

Q. What time did they arrive home?

A. I had to get them; they were over at a friend of my wife's.

Q. How did you find out where they were?

A. My sister told me after I got home I changed clothes and went over to the office but it was closed and so I went over to the Harlem House.

Q. Who was aware of your plans to ambush a squad car when you left the invaders headquarters on August 24, other than you, Womax, Oree, Gloria, and John Gary?

A. I would have to say John Smith was aware something was going to happen; he didn't know what; when Oree went to him to get the pistol.

Q. He was not aware that you intended to ambush a squad car only that you intended to create some trouble when he gave a pistol to Oree?

A. Yes, Oree went to Smith to get the pistol and I don't know whether they had words about it or not because I was going out the back door, but as far as knowing when and where the shooting was to take place he didn't know but I would say he knew we were going to take some shots at some squad cars.

Q. Did he voice any approval or disapproval in your presence?

A. No. Now Charles Cabbage, he probably knew it also because one of the rifles was his.

Q. How did mere ownership of the rifle make him know about the ambush?

A. We had went and got the rifle earlier that day.

Q. From where?

A. From where he kept it at Lakeview Gardens.

Q. But I understand your plans to attack a squad car were not formulated until after the arrest of John Ferguson which occurred at approximately seven-thirty between seven and eight o'clock on August 24, 1968. Would you please explain your prior statement as to Cabbage's knowledge this by mere ownership of the rifle?

A. We got the rifle from him earlier that day for the purpose of ambushing a squad car at some time but not at that specific time. When I said we I meant the executive board of the invaders that consists of the President Richard Cabbage; Vice-president me; Minister of Defense Arthur Norwood; Business Manager "Butch" Clark; Treasurer Larry Davis; John Smith the liaison between the invaders and the black organizing project; Van Cabbage Minister of Information; Donnie Delaney, artist for us.

Q. When was the first discussion about ambushing a policeman or a squad car held?

A. That came up right after the incident of Oakland, California, between the black panthers and police.

Q. Who was doing the talking about ambushing a squad car at that time?

A. We were corresponding with the panthers and other militant groups over the nation but the panthers had declared war on the police in California and they asked us to do the same in Memphis and also they asked the commandos in Newark, New Jersey and different organizations over the nation and we agreed and we started building an arsenal for this purpose.

Q. Did this become part of your agenda at the invader meetings and did you assign a committee to see about the possibility or feasibility of this?

A. As far as the executive board, we split the executive board to two groups. The president took one half, the vice president the other half. I being the vice chairman took the militant half and Richard Cabbage the chairman took the political half; that was in order not to slow up the processes of the organization so we could help the panthers out and still stay on our same basis.

Q. Were there any reports made back to the invader group as to what ya'll had found out or recommended?

A. Eight of the executive board, in all the four I had the three and myself, we were to take all those steps; the other four were to keep moving at the rate we were going; it was our job to get out and get the arsenal together.

Q. Who was on your committee?

A. Myself as chairman, Minister of Defense Arthur Norwood, Donnie Delaney Minister of Arts and Crafts and Womax Stevenson, he was Assistant Minister of Defense; that was our job to plan it and build up the arsenal.

Q. How long was it from the time you received your first communication from the black panthers in Oakland until you actually ambushed this squad car on August 24?

A. We first got in contact with them in the last of '67.

Q. Was this supposed to be as it turned out to be, a one shot affair, or was it to be an actual declaration of war?

A. It was to be all out war, sort of guerrilla warfare so to speak.

Q. Are these plans still in existence?

A. Yes.

Q. Other than the parties that you have named as being in on the general plan to attack the police department, was anyone else actively engaged with you and your committee?

A. John Smith.

Q. What steps did you take to prepare your organization to declare war on the Memphis Police Department?

A. We started getting in contact with people within the city and outside of the city.

Q. Who did you get in contact with?

A. I never did come in contact with the people but Smith he had about the largest contact and that was with some guy that works out at the defense depot.

Q. Do you know the man?

A. No.

Q. Is he a Negro or is he a white man?

A. I don't know.

Q. How did Smith contact him?

A. I don't know. He just mentioned to us that he had a contact and he could get us any type of equipment we needed, such as, grenades, automatic rifles and different things like that.

Q. What other sources beside the contact at the army depot did ya'll have for securing weapons?

A. Charles Cabbage had some contact down here in Atlanta to get rifles, pistols, ammunition.

Q. To your knowledge were any weapons secured from Atlanta?

A. No.

Q. You just had knowledge that they could be?

A. Yes.

Q. Were any weapons secured from the army depot prior to your arrest?

A. Not to my knowledge.

Q. Where were the weapons secured prior to your arrest?

A. Just here and there, like you might see a shot gun in the back of a pickup, snatch it out and you've got a weapon.

Q. Would you describe the arsenal that you were able to assemble from the time you started to the time you were arrested?

A. It is weak yet it is still strong; all the active members of the organization had fire arms. As far as an arsenal was concerned that was just with the invaders because there are other groups all over the city such as Orange Mound the Avengers, Iron Curtain and another Invader organization. The Devil's Disciples out in Klondike has the best arsenal. The reason that they hadn't broke out was they were waiting for us to take the first step and they would take up from there. All the other organizations had better arsenals than us.

Q. It was your job as an Invader to make an arsenal from sometime in 1967 till the date of your arrest on August 25, 1968. Describe the arsenal you were able to make and the sources you were able to make it from.

A. All the active members of the organization had rifles and fire arms.

Q. But that is weapons they had but you were assigned the job of gathering up other weapons, what did you do?

A. I was assigned the job of getting fire arms for each and every person in the organization.

Q. Where did you gather them from and what did you gather?

A. Most of those that I gathered were rifles and shot guns; this was through breakins and different things like that; you break in a place or you walk past a truck and see a gun and you break in and get one; things like that.

Q. Then it is my understanding that you did not at any time secure any large number of weapons at one time from one source. They were all piece meal, one at a time and generally they were stolen?

A. Yes, you might buy one occasionally.

Q. Who was doing the corresponding with the black panthers in Oakland, California?

A. That was Smith and Cabbage.

Q. Do you know if they were keeping carbon copies of this correspondence?

A. I don't know about copies but they were keeping the originals.

Q. Who would do the typing or were these letters handwritten?

A. Sometimes they were typed and sometimes written; we all knew how to type.

Q. Does the invaders have files that they keep?

A. Yes we have files but not in a file cabinet.

Q. Where do they keep it?

A. They are kept here and there; A might be at Larry's house and B at someone else's house. They were scattered so that if anyone was captured they couldn't get everything.

Q. Do you know who John Smith and Charles Cabbage were corresponding with connected with the black panthers in Oakland?

A. It might be different people in the panthers in the executive board.

Q. Do you know personally or have you had any contact with any of the black panthers you were corresponding with?

A. Not with the ones we were corresponding with but a couple of them came through Memphis, and we talked to them.

Q. Do you know any of their names,

A. No, but I could recognize them.

Q. Ben, who can corroborate your statements in regards to the participation of Gloria in this ambush shooting of the police officers, and how?

A. When we left my apartment going back to the invader headquarters to get the ammunition we saw my mother walking. Gary stopped the car and she asked me where I was going and that's okay you don't need to go and I said it's all right I'll be back in a moment.

Q. What is your mother's name, address, and occupation?

A. Jesse Mae Berr, 59 East Trigg, works at the Health Department.

Q. Is there anyone else that could place you in the company of these four people on August 24, 1968, immediately before or after the ambush shooting of the squad car?

A. Jimmy Cox, Willie Turner, Willie Jackson, Gerald Williams. Jimmy Cox lives over here at Lauderdale Subdivision but I don't know the exact address. Willie Turner stays on Utah where Utah runs into the railroad tracks, the second house from the corner right before it gets to the railroad tracks. Gerald Williams stays on Utah, 69 Utah. Willie Jackson I don't know exactly where he stays.

Q. Who had which weapons in their possession?

A. Gary the 303, Womax the 22,250, I had the 7.62, Oree had the 9 millimeter pistol.

Q. Ben, would you describe the exact location of the four men involved in this shooting from the boardwalk going across the ditch on the path?

A. Oree was closest to the boardwalk about two or three feet; I was about three feet to the right of Oree; Womax was three feet to the right of me; and Gary was about two or three feet to the right of him.

Q. When the shots were fired were you kneeling, standing or in a prone position?

A. Kneeling.

Q. Do you know the position of the other men that were firing?

A. They were all kneeling.

Q. Where was the stranger that had walked up?

A. Between Womax and Gary. He had just passed Womax but still between them.

Q. How did you become aware that the squad car was there?

A. Through Womax who was next to me; Oree was looking back toward the rest of us; he was next to the bridge; he had his back to the railroad track; Womax was facing the tracks so therefore he saw the car first; I was turned in a position where the stranger couldn't see my face; that is why he couldn't identify me as well.

Q. Where was the squad car when you first saw it?

A. It was turning.

Q. Where was the squad car when the shot was fired?

A. It was about twenty-five or thirty yards from the turn.

Q. Did you see what the reaction of the squad car was after ya'll fired?

A. They floor boarded it.

Q. Did you see anyone at all when you were running?

A. No.

Q. When ya'll got in John Gary's car, did ya'll take off fast, slow, normal?

A. Normally. If we had taken off fast, it would have brought attention.

BEN HEARD BERRY.

Mr. Lux. I also have a copy of the typical handout found on the streets of most of the cities today—wanted for rape, racism, murder, harassment, brutality, insanity, genocide: Memphis Police Department, \$1,000,000 reward, dead or alive. I would also like to offer this, along with several copies from the official Black Panther newspaper, with the dates and the pages on which they appeared, that are similar to this particular organization.

Mr. SOURWINE. May these be received, Mr. Chairman.

Senator THURMOND. Without objection, it is so ordered.

(The handout referred to follows. The newspaper clippings referred to may be found in the files of the subcommittee.)

WHEN I (S L) 6/7 *1968*

For Rape - Racism - Murder ³⁰⁷
 Harassment - Brutality
 INSANITY - Genocide

MEMPHIS



\$1,000,000 Reward
 Dead or Alive

Mr. Lux. Gentlemen, I have stated and state again that I fully and completely support these bills. I think they will be held constitutional. This is an opportunity for us to really find out in the technical sense of the law whether or not this is a conspiracy as such. I suspect that with national organizations involved, with the resources that we will probably establish this forthwith.

Gentlemen, I have no further testimony at this time. I will be happy to answer any questions that the committee might have.

Senator THURMOND. Chief Lux, I wish to thank you for your appearance here and the contribution you make to our hearings. If you think of anything else that you would like for us to have the benefit of, feel free to get in touch with our committee and submit such information.

Mr. Lux. Thank you.

Senator THURMOND. Is Chief Coffey here?

**STATEMENT OF LOUIS W. COFFEY, CHIEF, POLICE DEPARTMENT,
CLEVELAND, OHIO**

Mr. COFFEY. Yes, sir.

Senator THURMOND. Do you have a written statement?

Mr. COFFEY. I have not, sir. I'll be very brief.

Senator THURMOND. Chief Coffey, we are glad to have you with us and appreciate your coming and testifying. You may proceed.

Mr. COFFEY. Thank you, Mr. Chairman.

In the corridors of central police station in Cleveland, Ohio, there is a badge case containing the badges of police officers killed in the line of duty since Cleveland first had a police department. During the past 95 years, since 1875, there was a total of 85 police officers who died in the line of duty.

Senator THURMOND. How many?

Mr. COFFEY. Eighty-five.

Senator THURMOND. Who died in the line of duty?

Mr. COFFEY. In 95 years in the history of the Cleveland Police Department. All but 21 of these men who were victims of motor vehicle accidents met with violent death at the hands of criminals. Of these 64 such nonmotor vehicle deaths, seven have occurred in the past 3 years, plus an eighth related fatality of an officer killed on a scooter while accompanying a firetruck, one of which trucks had been subjected to acts of assault by missiles while they responded to these alarms.

In addition to these fatalities, in 1967, there were 36 officers assaulted with nondeadly force and nine officers assaulted with deadly force, one of whom was a homicide, for a total of 45 assaults.

In 1968, there were 41 nondeadly assaults and 39 assaults with deadly weapons, three of which were homicides, for a total of 80 assaults.

In 1969, we had 53 nondeadly assaults and 25 assaults with deadly weapons, two of which were homicides, for a total of 68 assaults. So far this year, 1970, we have had 62 nondeadly assaults and 40 assaults with deadly weapons, for a total of 102 assaults, including one homicide.

Summarized, since January 1967, 45 weeks ago, there have been 305 assaults on police officers, of which 113 were deadly assaults resulting in death to seven of our police officers.

During the month of February 1970, which was when I assumed the office of chief of police, two police cars were riddled with bullets from high-powered weapons, although in each case, the officers miraculously escaped unharmed. In both cases, the cars were on routine patrol and not in the act of stopping any violators. In one case, 16 shell casings were found at the scene of the assault. The subject was able to flee from justice and remains unapprehended. In the other case, one high-powered shell pierced the side door of the police car and the other shell shattered the side window, again except for minor injury, the officers escaped.

During this same month of February 1970, a bomb was exploded in the classroom of a junior college on a school day during a lunch hour break. This was a junior college in which our police cadets receive instruction.

Also in this same month, February 1970, at the same junior college, a bomb exploded on a car belonging to a police officer, who was assigned to duty at this college.

Why I mention this month, Mr. Chairman, is that just prior to these incidents in February of 1970, we had accepted applications for examinations for patrolmen. Of about 650 men who had signed to take the examination, 100 of them failed to appear on the examination date, the following month, in March. Their change of mind is understandable. And this is part of the recruiting problem that we, and all other cities have in recruiting members for the force today.

Now, just within the past month, two other police cars were hit with bullets on the streets of Cleveland. In the first case, the suspect was arrested at the scene for attempting to start a riot and then released on bond. We were unable to connect him with the actual shooting, but we were able to have him on the attempt to incite a riot. In the second case, just 4 days later, the same suspect was identified by a victim and arrested for robbery, rape, and shooting and hitting the police car which responded to the radio assignment. This is while he was out on bond. This suspect was one of four who had committed these crimes of rape and robbery on an innocent party. There was one other suspect arrested with him at that time.

In the first case during this month, the bubble light on top of the police car was shot off. In the second, a .45, when they responded to this rape and robbery, a .45 caliber shell pierced the side of the police car. Again, fortunately, there were no injuries to the police officer.

Firemen, too, have been the victims of assaults when responding to alarms. Information received from the fire chief's office—and I am sorry, but this information was gathered in a hurry and it is not, perhaps, as complete as I would like to have it. This information disclosed that in 1967, there were 12 reported incidents of assaults on firetrucks. In the year 1968, there were 17 such incidents, including one case of a fire station being fired upon. In 1969, there were 56 such incidents, including three incidents of firetrucks being shot at with fire-

men aboard. In 1970, to date, we have had 28 such fire incidents, including one case of a fireman being shot at.

I have a report from our bomb squad for your information. In 1967, there were 86 bomb threats and 16 actual bombings. In 1968, we had 128 bomb threats and 16 actual bombings. In 1969 we had 140 bomb threats and 26 actual bombings. To date in 1970, there have been 287 bomb threats, with nine bombings.

Gentlemen, on September 28, 1970, this year, two of our young officers on routine patrols stopped a vehicle in the early morning hours for a traffic violation. When approaching the vehicle from opposite sides and from the rear, as in the prescribed manner, they were fired upon without warning, resulting in one fatality and one seriously injured officer. The murderers have not yet been apprehended, although they have been identified and warrants have been issued for their arrest. However, my interest in this bill was made more acute for this reason: It took several days before the Federal authorities entered the case on the unlawful flight section.

It is my firm belief and conviction that deadly assaults on police officers should be made a Federal crime, with a presumption that some interstate commerce is involved. Only in this manner can all possible assistance be given local law enforcement authorities in apprehending these law violators. I strongly urge that favorable consideration of Federal laws for accomplishing this purpose. I have only had the opportunity since I heard of this meeting, right before I left for the Atlantic City convention, to read over one of the Federal bills being presented, the Dodd bill. I understand from the chief investigator for your committee that some of the other bills have other features that are equally protective as far as the police officers are concerned. I support any bill that will bring the Federal people into a case of killing a police officer instantaneously.

(Subsequent to the hearings, Police Chief Lewis W. Coffey received the following letter which was forwarded to the subcommittee and ordered into the record.)

CLEVELAND, OHIO, October 11, 1970.

Police Chief LEWIS COFFEY,
City of Cleveland Jail,
Cleveland, Ohio.

DEAR MR. COFFEY: My husband and I just returned from our weekly trip to the cemetery, where we placed fresh flowers on our son's grave. He was the security guard slain in the May Company last February 28th, while apprehending a shoplifter. The anguish we have suffered is unbearable, and I doubt that I will be able to bear it forever.

To Fred, law and his Country were everything. Upon returning from his active duty with the Navy, he took law enforcement courses at Cuyaboga Community College. He then took a job as deputy sheriff under Ralph Kreiger, and served almost a year. While working as a deputy, he was sent to Police Academy for the required amount of hours and graduated with an excellent record. Because the hours were so long (72 per week) and the pay so low (\$6500 per year), he took a job as security guard with the May Company, and planned on taking the Cleveland Police Dept. test when it was presented again.

In every sense he was an officer of the law and was defending the law at the time of his death just as much as any Cleveland Police officer would be doing. His case was compared to the John Appanitis case, in which John, too, was shot down by a shoplifter. One policeman, and I do not know him, remarked that this was the most dangerous job of all.

What I am trying to say, Mr. Coffey, is, while we believe whole-heartedly in the mandatory death penalty for killing police and firemen, why not include security guards who are risking their lives while dealing with such dangerous characters in stores, banks, etc. Quite a few have already been slain, and more and more are being hired to help protect citizens against the hoodlums who are endangering our society.

Hoping my son has not died in vain

Yours very truly,

ARLINE TUTTLE.

Senator THURMOND. Mr. Sourwine?

Mr. SOURWINE. I have no questions, Mr. Chairman.

Senator THURMOND. Chief Coffey, I want to express my appreciation to you for your presence here and for testifying before this committee and giving us the benefit of your information, your experience, and your suggestions. We appreciate the fine contribution you have made.

Thank you.

Mr. COFFEY. Thank you, sir.

Senator THURMOND. We are going to take a recess now until 2:30.

(Whereupon, at 1:05 p.m., the subcommittee was recessed until 2:30 p.m. of the same day.)

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ASSAULTS ON LAW ENFORCEMENT OFFICERS

HEARINGS

BEFORE THE

SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-FIRST CONGRESS

SECOND SESSION

ON

S. 4325

A BILL TO PROHIBIT FLIGHT IN INTERSTATE OR FOREIGN COMMERCE
TO AVOID PROSECUTION FOR THE KILLING OF A POLICEMAN OR
FIREMAN

S. 4348

A BILL TO PROHIBIT ASSAULTS ON STATE LAW ENFORCEMENT OF-
FICERS, FIREMEN, AND JUDICIAL OFFICERS

S. 4359

A BILL TO AMEND CHAPTER 84, OF TITLE 18 OF THE UNITED STATES
CODE, RELATING TO THE INJURING OR KILLING OF POLICE OFFICERS
BECAUSE OF THEIR OFFICIAL CHARACTER, AND FOR OTHER PURPOSES

S. 4403

A BILL TO PROVIDE CRIMINAL PENALTIES FOR ACTS COMMITTED IN
FURTHERANCE OF URBAN TERRORISM, TO PROVIDE LICENSING PRO-
VISIONS AND CRIMINAL PENALTIES DESIGNED TO CONTROL THE
UNLAWFUL USE OF EXPLOSIVES, AND FOR OTHER PURPOSES

PART 5

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OCTOBER 9, 1970

AFTERNOON SESSION

Committee on the Judiciary

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ASSAULTS ON LAW ENFORCEMENT OFFICERS

FRIDAY, OCTOBER 9, 1970

U.S. SENATE,
SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY ACT
AND OTHER INTERNAL SECURITY LAWS
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

AFTERNOON SESSION

Senator THURMOND. The subcommittee will come to order.
Col. David B. Kelly, superintendent of New Jersey State Police,
is the first witness.

Colonel Kelly, we are very glad to have you with us. We appreciate
your coming down to testify and you may proceed.

STATEMENT OF COL. DAVID B. KELLY, SUPERINTENDENT, NEW JERSEY STATE POLICE

Colonel KELLY. Thank you very much, Senator. I am glad I was in-
vited and I hope that I can enlighten you in some respect, or at some-
thing in the support of this program.

I would like to start off by saying that in 1969 four New Jersey of-
ficers lost their lives as a result of criminal action directed against
them. In addition, one New Jersey correction officer was murdered
while attempting to stop an "on-view" criminal offense, a bank robbery
occurring in his presence.

Weapon circumstances surrounding the slaying of the four police
officers were identical, in that a firearm was the instrument of death in
all cases. A handgun was the weapon employed in one police murder,
and shotguns were used in the remaining three. Since 1966 all but one
of the 10 New Jersey police officers who lost their lives in the line of
duty died as a result of gunshot wounds.

I would like to give you some statistics with regard to assaults on po-
lice. Municipal police officers of the State were the victims of 1,087
cases of assault during the year 1969, an alarming increase of 37 per-
cent in such occurrences of reports for 1968. Since 1967 assaults on
police officers have increased by 41 percent. Today in the performance
of their lawful duties police experience confrontations with emotion-
ally aroused citizens protesting real or imagined grievances. This de-
velopment has undoubtedly helped to account for some of the dramatic
increase of assaults on police officers. The growing attitudes of dis-
respect for all lawful authority, however, must be considered as the

basic underlying factor which contributes to the selection of police as targets for these criminal acts.

While every police officer who is assaulted does not suffer personal injury, 45 percent of those assaulted in 1969 did, to one degree or another sustain physical injury.

In 1969 the rate of police assaulted in the State was computed at 13.9 percent, or 13.9 assaults for every 100 municipal police officers, with more than 45 percent of these assaults resulting in personal injury to the officers. When compared to the 1968 rate of police assaults, 10.6 per 100, the risk of a New Jersey police officer becoming the victim of an assault has risen more than 31 percent.

Mr. SOURWINE. Do you have comparable figures for the first part of this year, or as far as we have gone this year?

Colonel KELLY. With regard to 1970, Senator, we have not compiled them, because this is compiled on a yearly basis. I could give you a sample survey that has been made, and we are traveling at the same rate as 1969.

Mr. SOURWINE. I didn't mean to disrupt your presentation. I am sorry.

Colonel KELLY. I am glad you asked. We made a survey, and we will give you the statistical report throughout the State, and we have a sampling of it, and the trend is continuing at the same rate as 1969. But it cannot be evaluated until the end of 1970.

I would like to make a statement with regard to the situation that we find ourselves in as police officers today. The sniper attacks, ambushing, bombings, and assaults on police officers are attacks at the very foundations of our system of government. Conditions that permit this type of violence must be questioned.

Apparently attitudes of some people in America have changed. It was not long ago that an attack on a police officer brought headlines and produced discussions about "locking up anyone who would do that and throw away the key." Today, if mentioned at all in the press, then it may be a 2-inch article about the assaulted officer, and it may well be only the obituary notice.

Attitudes concerning the resistance of authority are not restricted to offenders of the law. Violent interference by individuals or mobs who attack officers while they are effecting arrests, cannot be condoned by the explanation that they were only liberating an innocent victim of the system.

The police officer of today is not an illiterate. He is not poorly trained, or an individual with limited skills; he is, in fact, highly educated in the psychological and sociological problems of urban and suburban life. He is trained to handle multiple problems, and selected because of character traits denoting attitudes of concern and cool-headedness under pressure. His training continues throughout his career. It is unfortunate that today it must be stocked with material concerning how he must learn to avoid a sniper's bullet and the bombs of terrorists.

But it does little good to talk of these intolerable situations. Solutions are needed.

First, let us understand the problems.

Attacks on police officers are not attacks on individuals but on the police services provided.

Bombings and sniper fire are directed against the concepts of law enforcement and social order; not against individual policemen.

Observations and suggestions have been offered to trigger response that may limit, if not stop, these attacks.

It is recommended that immediate action is needed to apprehend those who attack police officers. They should be brought to trial immediately, and when convicted they should face mandatory sentences consistent with the nature of the offense.

It does little good to arrest a criminal offender and delay trial or imposition of sentence. Justice to the abused must be considered along with justice to the accused. A speedy and just trial benefits everyone.

Next, society should be made aware of all unprovoked attacks at the law enforcement profession, and not just when the police officer is charged with brutality. The news media, another social service professional, should realize the impact their editorials and reports have, and this should be weighed against facts and not commercial value. Under no circumstances should articles be printed that glorify police assassins.

Police officers should be given additional training in self-protection and any protective equipment necessary for their safety. Police must be taught how to identify booby-traps, bombs, and explosives. Some must receive training in the handling of hazardous materials.

Better techniques are needed to obtain and evaluate intelligence and a system should be devised to disseminate information as rapidly as possible to our police officers. In my State the total police population is less than one-fifth of 1 percent of the population. There is one police officer to every 1,000 citizens. More effort is needed to develop means for society to communicate with law enforcement representatives. Lawlessness is bred by unconcerned and disinterested citizens. A better rapport between the public and their appointed protectors will provide the initiative for adequate police intelligence.

Police must also be allowed to make public information vital to the safety of society. Reasonable men and women make up juries, and accurate reporting should not be considered as unfair pretrial prejudice. If the act is despicable, it should be said.

Police have been accused of overreacting to provocation. When they are spit upon, assaulted upon, defiled by human secretion, or when they are stoned, firebombed, shot at or threatened with vast violence, they have no agency to call to rescue them. Time after time police have stood their ground and faced provocation. They have made arrests where necessary, and in many instances for the general safety of society they have fought holding actions which also have been condemned as failure on the part of police to react.

Part of the documentation I am leaving here today deals with violence and the teaching of violence by groups who want to destroy our democratic way of life. If police were to react to this type of literature, many cities in this country would be battlegrounds.

Passage of this bill or bills would have a great moral and psychological impact on all law enforcement officers. Hopefully it would also be a deterrent on anyone who would contemplate violence toward those who have been sworn to represent the people and save their lives and property.

Although I testified as superintendent of the New Jersey State Police and used statistics compiled from all the law enforcement agencies of New Jersey, I feel a personal interest in what has caused a bill such as this to be needed.

I am concerned also about the impact on the youth of this Nation when hate and contempt for us have bred violence toward representatives of Government. Youth must be shown that positive steps are being taken to safeguard the structure necessary for a democratic society to continue.

Unfortunately the need for the bill exists, and I support it and all of the other legislation that would strengthen the ability of the law enforcement profession to respond to attacks on our society.

I leave for you, Senator, the documentation with regard to assaults in the State of New Jersey as it is reflected in the years 1966, 1967, 1968, and 1969, and listing the synopsis of the more spectacular incidents as contained in this booklet. I will offer this for the record, if I may, as a documentation in evidence.

Senator THURMOND. Without objection that will be admitted in evidence.

(The document referred to follows:)

ASSAULTS ON POLICE OFFICERS--STATE OF NEW JERSEY

	1966	1967	1968	1969	1970
All police.....	1,196	1,340	1,376	1,887	(1)
State police.....	37	24	52	31	91

† Statistics for 1970 are compiled at the end of the calendar year.

‡ For the first 9 months of 1970. Of the total 91 figure, 60 troopers were injured during the Asbury Park riots.

Synopses of more spectacular incidents are contained on the following pages.
Newark, N.J., July 14, 1967, Newark Police Detective shot and killed by a sniper during a riot.

Plainfield, N.J., July 16, 1967, Police Officer killed by club knife and beaten during riot.

Camden, N.J., July 5, 1967, two Police Officers were shot while responding to an apparent set up call.

Camden, N.J., September 2, 1969, Police Officer shot and killed by shotgun fire during riot.

Plainfield, N.J., July 1, 1970, Police Officer shot by a sniper when responding to a false alarm fire, another apparent set up call.

N.J. Turnpike, September 21, 1970, a N.J. State Trooper stopped a vehicle on a routine check. Three occupants stood in road with one man to the rear and between the other two. The two front men separated, the third, weapon in hand, fired point blank, wounding the Trooper, who returned fire. Occupants fled in truck and were apprehended after a high speed chase, which resulted in a motor vehicle accident to their vehicle.

Atlantic City, N.J., September 30, 1970, a Police Officer were brutally shot and killed with a shotgun wielded by two males as he attempted to question them on a routine check.

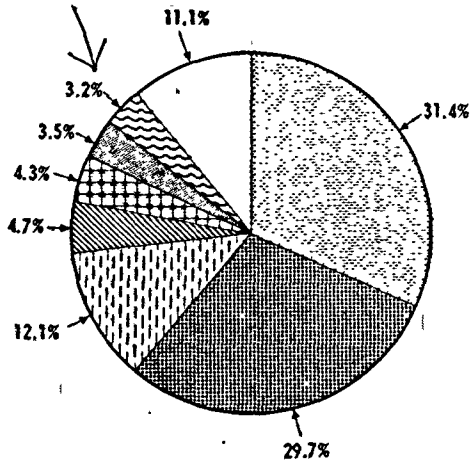
**FULL TIME MUNICIPAL POLICE OFFICERS ASSAULTED IN LINE OF DUTY
1966 and 1967, BY POPULATION GROUP**

POPULATION GROUPS	1966 ASSAULTS			1967 ASSAULTS			1966 Rate of Assaults Per 100 Police Officers	1967 Rate of Assaults Per 100 Police Officers
	With Injury	Without Injury	TOTAL Assaults	With Injury	Without Injury	TOTAL Assaults		
GROUP I 7 Municipalities over 100,000; Total Population ~ 1,264,250	213	166	379	276	223	499	11.1	14.3
GROUP II 13 Municipalities 50,000 to 100,000; Total Population 836,740	83	79	162	61	77	138	9.2	8.8
GROUP III 46 Municipalities 25,000 to 50,000; Total Population 1,695,276	126	127	253	146	140	286	9.8	10.6
GROUP IV 62 Municipalities 15,000 to 25,000; Total Population 998,790	48	82	131	50	87	137	9.8	9.7
GROUP V 196 Municipalities 5,000 to 15,000; Total Population 1,788,440	70	149	219	88	144	232	9.0	7.9
GROUP VI 141 Municipalities 2,000 to 5,000; Total Population 475,560	37	30	67	27	42	69	13.7	12.8
GROUP VII 113 Municipalities under 2,000; Total Population 128,730	9	6	15	9	10	19	7.2	8.9
TOTAL	557	639	1,196	617	723	1,340	10.1	10.8

1966

1967

CHART 12
POLICE ASSAULTED BY TYPE OF ACTIVITY
1967



 DISTURBANCE, FAMILY DISPUTE, TAVERN DISORDERLY, etc.

 ATTEMPTING OTHER ARRESTS

 CRIME IN PROGRESS OR PURSUING SUSPECT INVOLVED IN CRIME

 SUSPICIOUS PERSON AND/OR CIRCUMSTANCE

 TRANSPORTING OTHER PRISONERS

 BERSERK OR DERANGED PERSON

 CIVIL DISORDER

 OTHER